VEHICLE CODE APPENDIX A

OTHER LAWS RELATING TO THE USE OR THE OPERATION OF MOTOR VEHICLES

NOTE: Appendix A of the Vehicle Code contains "other laws relating to the use or the operation of motor vehicles" as specified in Section 1656 of the Vehicle Code.

Pertinent excerpts from other codes are set forth here, grouped under code titles, in the alphabetical order of such titles, from the Business and Professions Code through the Welfare and Institutions Code.

A brief Table of Contents of the appendix, listing the codes from which excerpts are taken, and the pages on which the material is printed, precedes the appendix.

IMPORTANT: Some code sections in the appendix may not be current.

BUSINESS AND PROFESSIONS CODE

472.4. In addition to any other requirements of this chapter, the department shall do all of the following:

(a) Establish procedures to assist owners or lessees of new motor vehicles who have complaints regarding the operation of a qualified third-party dispute resolution process.

(b) Establish methods for measuring customer satisfaction and to identify violations of this chapter, which shall include an annual random postcard or telephone survey by the department of the customers of each qualified third-party dispute resolution process.

(c) Monitor and inspect, on a regular basis, qualified third-party dispute resolution processes to determine whether they continue to meet the standards for certification. Monitoring and inspection shall include, but not be limited to, all of the following:

(1) Onsite inspections of each qualified third-party dispute resolution process not less frequently than twice annually.

(2) Investigation of complaints from consumers regarding the operation of qualified third-party dispute resolution processes and analyses of representative samples of complaints against each process.y

(3) Analyses of the annual surveys required by subdivision (b).

(d) Notify the Department of Motor Vehicles of the failure of a manufacturer to honor a decision of a qualified third-party dispute resolution process to enable the Department of Motor Vehicles to take appropriate enforcement action against the manufacturer pursuant to Section 11705.4 of the Vehicle Code.

(e) Submit a biennial report to the Legislature evaluating the effectiveness of this chapter, make available to the public summaries of the statistics and other information supplied by each qualified third-party dispute resolution process, and publish educational materials regarding the purposes of this chapter.

(f) Adopt regulations as necessary and appropriate to implement this chapter and subdivision (d) of Section 1793.22 of the Civil Code.

(g) Protection of the public shall be the highest priority for the department in exercising its certification, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

(Amended Sec. 1, Ch. 107, Stats. 2002. Effective January 1, 2003.)

472.5. The New Motor Vehicle Board in the Department of Motor Vehicles shall, in accordance with the procedures prescribed in this section, administer the collection of fees for the purposes of fully funding the administration of this chapter.

(a) Fees collected pursuant to this section shall be deposited in the Certification Account in the Consumer Affairs Fund and shall be available, upon appropriation by the Legislature, exclusively to pay the expenses incurred by the department in administering this chapter and to pay the New Motor Vehicle Board as provided in Section 3016 of the Vehicle Code. If, at the conclusion of any fiscal year, the amount of fees collected exceeds the amount of expenditures for that purpose during that fiscal year, the surplus in the Certification Account shall be carried over into the succeeding fiscal year.

(b) Beginning July 1, 1988, and on or before May 1 of each calendar year thereafter, every manufacturer shall file with the New Motor Vehicle Board a statement of the number of motor vehicles sold, leased, or otherwise distributed by or for the manufacturer in this state during the preceding calendar year, and shall, upon written notice delivered to the manufacturer by certified mail, return receipt requested, pay to the New Motor Vehicle Board a fee, not to exceed one dollar ($1) for each motor vehicle sold, leased, or distributed by or for the manufacturer in this state during the preceding calendar year. The total fee paid by each manufacturer shall be rounded to the nearest dollar in the manner described in Section 9559 of the Vehicle Code. Not more than one dollar ($1) shall be charged, collected, or received from any one or more manufacturers pursuant to this subdivision with respect to the same motor vehicle.

(c) (1) The fee required by subdivision (b) is due and payable not later than 30 days after the manufacturer has received notice of the amount due and is delinquent after that time. A penalty of 10 percent of the amount delinquent shall be added to that amount, if the delinquency continues for more than 30 days.

(2) If a manufacturer fails to file the statement required by subdivision (b) by the date specified, the New Motor Vehicle Board shall assess the amount due from the manufacturer by using as the number of motor vehicles sold, leased, or otherwise distributed by or for the manufacturer in this state during the preceding calendar year the total number of new registrations of all motor vehicles sold, leased, or otherwise distributed by or for the manufacturer during the preceding calendar year.

(d) On or before February 1 of each year, the department shall notify the New Motor Vehicle Board of the dollar amount necessary to fully fund the program established by this chapter during the following fiscal year. The New Motor Vehicle Board shall use this information in calculating the amounts of the fees to be collected from manufacturers pursuant to this section.

(e) For purposes of this section, "motor vehicle" means a new passenger or commercial motor vehicle of a kind that is required to be registered under the Vehicle Code, but the term does not include a motorcycle, a motor home, or any vehicle whose gross weight exceeds 10,000 pounds.

(f) The New Motor Vehicle Board may adopt regulations to implement this section. The regulations shall include, at a minimum, a formula for calculating the fee, established pursuant to subdivision (b), for each motor vehicle and the total amount of fees to be collected from each manufacturer.

(g) Any revenues already received by the Arbitration Certification Program and deposited in the Vehicle Inspection and Repair Fund for the 1991–92 fiscal year that have not yet been spent shall be deposited into the Certification Account in the Consumer Affairs Fund.

(Amended Sec. 3, Ch. 970, Stats. 1998. Effective January 1, 1999.)

7029.6. Except for contractors identified in Section 7029.5, every contractor licensed under this chapter shall have displayed, in or on each motor vehicle used in his or her construction business, for which a commercial vehicle registration fee has been paid pursuant to Article 3 (commencing with Section 9400) of Chapter 6 of Division 3 of the Vehicle Code, his or her business name and contractors' license number in a clearly visible location in print type of at least 72-point font or three-quarters of an inch in height and width.

(Added Sec. 1, Ch. 118, Stats. 2003. Effective January 1, 2004.)

7507.9. Personal effects shall be removed from the collateral. A complete and accurate inventory of the personal effects shall be made, and the personal effects shall be labeled and stored by the licensee for a minimum of 60 days in a secure manner, except those personal effects removed by or in the presence of the debtor or the party in possession of the collateral at the time of the repossession.

(a) The date and time the inventory is made shall be indicated. The permanent records of the licensee shall indicate the name of the employee or registrant who performed the inventory.

(b) The following items of personal effects are items determined to present a danger or health hazard when recovered by the licensee and shall be disposed of in the following manner:

(1) Deadly weapons and dangerous drugs shall be turned over to any law enforcement agency for retention. These items shall be entered on the inventory and a notation shall be made as to the date and the time and the place the deadly weapon or dangerous drug was turned over to the law enforcement agency, and a receipt from the law enforcement agency shall be maintained in the records of the repossession agency.

(2) Combustibles shall be inventoried and noted as "disposed of, dangerous combustible," and the item shall be disposed of in a reasonable and safe manner.

(3) Food and other health hazard items shall be inventoried and noted as "disposed of, health hazard," and disposed of in a reasonable and safe manner.

(c) Personal effects may be disposed of after being held for at least 60 days. The inventory, and adequate information as to how, when, and to whom the personal effects were disposed of, shall be filed in the permanent records of the licensee.

(d) The inventory shall include the name, address, business hours, and telephone number of the repossession agency to contact for recovering the personal effects and an itemization of all personal effects removal and storage charges that will be made by the repossession agency. The inventory shall also include the following statement: "Please be advised that the property listed on this inventory will be disposed of by the repossession agency after being held for 60 days from the date of this notice IF UNCLAIMED."

(e) The inventory shall be provided to a debtor not later than 48 hours after the recovery of the collateral, except that if:

(1) The 48-hour period encompasses a Saturday, Sunday, or postal holiday, the inventory shall be provided no later than 72 hours after the recovery of the collateral.

(2) The 48-hour period encompasses a Saturday or Sunday and a postal holiday, the inventory shall be provided no later than 96 hours after the recovery of the collateral.

(3) Inventory resulting from repossession of a yacht, motor home, or travel trailer is such that it shall take at least four hours to inventory, then the inventory shall be provided no later than 96 hours after the recovery of the collateral. When the 96-hour period encompasses a Saturday, Sunday, or postal holiday, the inventory shall be provided no later than 120 hours after the recovery of the collateral.

(f) Environmental, Olympic, special interest, or other license plates issued pursuant to Article 8 (commencing with Section 5000), Article 8.4 (commencing with Section 5060) or Article 8.5 (commencing with Section 5100) of Chapter 1 of Division 3 of the Vehicle Code that remain the personal effects of the debtor shall be removed from the collateral and inventoried pursuant to this section. If the plates are not claimed by the debtor within 60 days, they shall be effectively destroyed and the licensee shall, within 30 days thereafter, notify the Department of Motor Vehicles of their effective destruction on a form promulgated by the chief that has been approved as to form by the Director of the Department of Motor Vehicles.

(g) The notice may be given by regular mail addressed to the last known address of the debtor or by personal service at the option of the repossession agency.

(h) The debtor may waive the preparation and presentation of an inventory if the debtor redeems the personal effects or other personal property not covered by a security interest within the time period for the notices required by this section and signs a statement that he or she has received all the property.

(i) If personal effects or other personal property not covered by a security agreement are to be released to someone other than the debtor, the repossession agency may request written authorization to do so from either the debtor or the legal owner.

(j) The inventory shall be a confidential document. A licensee shall only disclose the contents of the inventory under the following circumstances:

(1) In response to the order of a court having jurisdiction to issue the order.

(2) In compliance with a lawful subpoena issued by a court of competent jurisdiction.

(3) When the debtor has consented in writing to the release and the written consent is signed and dated by the debtor subsequent to the repossession and states the entity or entities to whom the contents of the inventory may be disclosed.

Amended Sec. 7, Ch. 532, Stats. 2004. Effective January 1, 2005.

7507.10. A licensee shall serve a debtor with a notice of seizure as soon as possible after the recovery of collateral and not later than 48 hours, except that if the 48-hour period encompasses a Saturday, Sunday, or postal holiday, the notice of seizure shall be provided not later than 72 hours or, if the 48-hour period encompasses a Saturday or Sunday and a postal holiday, the notice of seizure shall be provided not later than 96 hours, after the repossession of collateral. The notice shall include all of the following:

(a) The name, address, and telephone number of the legal owner to be contacted regarding the repossession.

(b) The name, address, and telephone number of the repossession agency to be contacted regarding the repossession.

(c) A statement printed on the notice containing the following: "Repossessors are regulated by the Bureau of Security and Investigative Services, Department of Consumer Affairs, Sacramento, CA 95814. Repossessors are required to provide you, not later than 48 hours after the recovery of collateral, with an inventory of personal effects or other personal property recovered during repossession unless the 48-hour period encompasses a Saturday, Sunday, or a postal holiday, then the inventory shall be provided no later than 96 hours after the recovery of collateral."

(d) A disclosure that "Damage to a vehicle during or subsequent to a repossession and only while the vehicle is in possession of the repossession agency and which is caused by the repossession agency is the liability of the repossession agency. A mechanical or tire failure shall not be the responsibility of the repossession agency unless the failure is due to the negligence of the repossession agency."

(e) If applicable, a disclosure that "Environmental, Olympic, special interest, or other license plates issued pursuant to Article 8 (commencing with Section 5000), Article 8.4 (commencing with Section 5060) or Article 8.5 (commencing with Section 5100) of Chapter 1 of Division 3 of the Vehicle Code that remain the personal effects of the debtor will be removed from the collateral and inventoried, and that if the plates are not claimed by the debtor within 60 days, they will be destroyed."

(f) A disclosure of the charges payable by the debtor to the repossession agency for the storage of the collateral and personal effects from the date of repossession until release of the property from storage.

The notice may be given by regular mail addressed to the last known address of the debtor or by personal service at the option of the repossession agency.

(Amended Sec. 8, Ch. 532, Stats. 2004. Effective January 1, 2005.)

9882. (a) There is in the Department of Consumer Affairs a Bureau of Automotive Repair under the supervision and control of the director. The duty of enforcing and administering this chapter is vested in the chief who is responsible to the director. The director may adopt and enforce those rules and regulations that he or she determines are reasonably necessary to carry out the purposes of this chapter and declaring the policy of the bureau, including a system for the issuance of citations for violations of this chapter as specified in Section 125.9. These rules and regulations shall be adopted pursuant to Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code.

(b) In 2003 and every four years thereafter, the Joint Legislative Sunset Review Committee shall hold a public hearing to receive testimony from the Director of Consumer Affairs and the bureau. In those hearings, the bureau shall have the burden of demonstrating a compelling public need for the continued existence of the bureau and its regulatory program, and that its function is the least restrictive regulation consistent with the public health, safety, and welfare. The committee shall evaluate and review the effectiveness and efficiency of the bureau based on factors and minimum standards of performance that are specified in Section 473.4. The committee shall report its findings and recommendations as specified in Section 473.5. The bureau shall prepare an analysis and submit a report to the committee as specified in Section 473.2.

(Amended Sec. 1, Ch. 572, Stats. 2004. Effective January 1, 2005.)

9882.5. The director shall on his or her own initiative or in response to complaints, investigate on a continuous basis and gather evidence of violations of this chapter and of any regulation adopted pursuant to this chapter, by any automotive repair dealer or automotive technician, whether registered or not, and by any employee, partner, officer, or member of any automotive repair dealer. The director shall establish procedures for accepting complaints from the public against any dealer or automotive technician. The director may suggest measures that, in the director's judgment, would compensate for any damages suffered as a result of an alleged violation. If the dealer accepts the suggestions and performs accordingly, such fact shall be given due consideration in any subsequent disciplinary proceeding.

(Amended Sec. 24, Ch. 879, Stats. 1998. Effective January 1, 1999.)

9884.6. (a) It is unlawful for any person to be an automotive repair dealer unless that person has registered in accordance with this chapter and unless that registration is currently valid.

(b) A person who, for compensation, adjusts, installs, or tests retrofit systems for purposes of Chapter 6 (commencing with Section 44200) of Part 5 of Division 26 of the Health and Safety Code is an automotive repair dealer for purposes of this chapter.

(Amended Ch. 1138, Stats. 1985. Effective January 1, 1986.)

9887.1. The director shall have the authority to issue licenses for official lamp and brake adjusting stations and shall license lamp and brake adjusters. The licenses shall be issued in accordance with this chapter and regulations adopted by the director pursuant thereto. The director shall establish by regulation the terms of adjusters' licenses as are necessary for the practical administration of the provisions relating to adjusters, but those terms shall not be for less than one nor more than four years. Licenses may be renewed upon application and payment of the renewal fees if the application for renewal is made within the 30-day period prior to the date of expiration. Persons whose licenses have expired shall immediately cease the activity requiring a license, but the director shall accept

applications for renewal during the 30-day period following the date of expiration if they are accompanied by a new license fee. In no case shall a license be renewed where the application is received more than 30 days after the date of expiration.

(Amended Ch. 1433, Stats. 1990. Effective January 1, 1991.)

9888.2. The director shall adopt regulations which prescribe the equipment and other qualifications of any station as a condition to licensing the station as an official station for adjusting lamps or brakes and shall prescribe the qualifications of adjusters employed therein.

After consulting with the Department of the California Highway Patrol, the director may, by regulation, approve testing and calibrating equipment, which is capable of measuring or calibrating the standards imposed by statute and by rules and regulations, for use in official stations, and may approve the testing laboratories and the equipment they use to certify the performance of testing and calibrating equipment.

(Amended Ch. 1433, Stats. 1990. Effective January 1, 1991.)

9888.3. No person shall operate an "official" lamp or brake adjusting station unless a license therefor has been issued by the director. No person shall issue, or cause or permit to be issued, any certificate purporting to be an official lamp adjustment certificate unless he or she is a licensed lamp adjuster or an official brake adjustment certificate unless he or she is a licensed brake adjuster.

(Amended Ch. 1433, Stats. 1990. Effective January 1, 1991.)

9889.16. Whenever a licensed adjuster in a licensed station upon an inspection or after an adjustment, made in conformity with the instructions of the bureau, determines that the lamps or the brakes upon any vehicle conform with the requirements of the Vehicle Code, he shall, when requested by the owner or driver of the vehicle, issue a certificate of adjustment on a form prescribed by the director, which certificate shall contain the date of issuance, the make and registration number of the vehicle, the name of the owner of the vehicle, and the official license of the station.

9889.19. The director may charge a fee for lamp and brake adjustment certificates furnished to licensed stations. The fee charged shall be established by regulation and shall not produce a total estimated revenue which, together with license fees or certification fees charged pursuant to Sections 9886.3, 9887.2, and 9887.3, is in excess of the estimated total cost to the bureau of the administration of this chapter. The fee charged by licensed stations for lamp and brake adjustment certificates shall be the same amount the director charges.

(Amended Ch. 1433, Stats. 1990. Effective January 1, 1991.)

13660. (a) Every person, firm, partnership, association, trustee, or corporation that operates a service station shall provide, upon request, refueling service to a disabled driver of a vehicle that displays a disabled person's plate or placard, or a disabled veteran's plate, issued by the Department of Motor Vehicles. The price charged for the motor vehicle fuel shall be no greater than that which the station otherwise would charge the public generally to purchase motor vehicle fuel without refueling service.

(b) Any person or entity specified in subdivision (a) that operates a service station shall be exempt from this section during hours when:

(1) Only one employee is on duty.

(2) Only two employees are on duty, one of whom is assigned exclusively to the preparation of food.

As used in this subdivision, the term "employee" does not include a person employed by an unrelated business that is not owned or operated by the entity offering motor vehicle fuel for sale to the general public.

(c) (1) Every person, firm, partnership, association, trustee, or corporation required to provide refueling service for persons with disabilities pursuant to this section shall post the following notice, or a notice with substantially similar language, in a manner and single location that is conspicuous to a driver seeking refueling service:

"Service to Disabled Persons

Disabled individuals properly displaying a disabled person's plate or placard, or a disabled veteran's plate, issued by the Department of Motor Vehicles, are entitled to request and receive refueling service at this service station for which they may not be charged more than the self-service price."

(2) If refueling service is limited to certain hours pursuant to an exemption set forth in subdivision (b), the notice required by paragraph (1) shall also specify the hours during which refueling service for persons with disabilities is available.

(3) Every person, firm, partnership, association, trustee, or corporation that, consistent with subdivision (b), does not provide refueling service for persons with disabilities during any hours of operation shall post the following notice in a manner and single location that is conspicuous to a driver seeking refueling service:

"No Service for Disabled Persons

This service station does not provide refueling service for disabled individuals."

(4) The signs required by paragraphs (1) and (3) shall also include a statement indicating that drivers seeking information about enforcement of laws related to refueling services for persons with disabilities may call one or more toll-free telephone numbers specified and maintained by the Department of Rehabilitation. By January 31, 1999, the Director of the Department of Rehabilitation shall notify the State Board of Equalization of the toll-free telephone number or numbers to be included on the signs required by this subdivision. At least one of these toll-free telephone numbers shall be accessible to persons using telephone devices for the deaf. The State Board of Equalization shall publish information regarding the toll-free telephone numbers as part of its annual notification required by subdivision (i). In the event that the toll-free telephone number or numbers change, the Director of the Department of Rehabilitation shall notify the State Board of Equalization of the new toll-free telephone number or numbers to be used.

(d) During the county sealer's normal petroleum product inspection of a service station, the sealer shall verify that a sign has been posted in accordance with subdivision (c). If a sign has not been posted, the sealer shall issue a notice of violation to the owner or agent. The sealer shall be reimbursed, as prescribed by the department, from funds provided under Chapter 14. If substantial, repeated violations of subdivision (c) are noted at the same service station, the sealer shall refer the matter to the appropriate local law enforcement agency.

(e) The local law enforcement agency shall, upon the verified complaint of any person or public agency, investigate the actions of any person, firm, partnership, association, trustee, or corporation alleged to have violated this section. If the local law enforcement agency determines that there has been a denial of service in violation of this section, or a substantial or repeated failure to comply with subdivision (c), the agency shall levy the fine prescribed in subdivision (f).

(f) Any person who, as a responsible managing individual setting service policy of a service station, or as an employee acting independently against the set service policy, acts in violation of this section is guilty of an infraction punishable by a fine of one hundred dollars ($100) for the first offense, two hundred dollars ($200) for the second offense, and five hundred dollars ($500) for each subsequent offense.

(g) In addition to those matters referred pursuant to subdivision (e), the city attorney, the district attorney, or the Attorney General, upon his or her own motion, may investigate and prosecute alleged violations of this section. Any person or public agency may also file a verified complaint alleging violation of this section with the city attorney, district attorney, or Attorney General.

(h) Enforcement of this section may be initiated by any intended beneficiary of the provisions of this section, his or her representatives, or any public agency that exercises oversight over the service station, and the action shall be governed by Section 1021.5 of the Code of Civil Procedure.

(i) An annual notice setting forth the provisions of this section shall be provided by the State Board of Equalization to every person, firm, partnership, association, trustee, or corporation that operates a service station.

(j) A notice setting forth the provisions of this section shall be printed on each disabled person's placard issued by the Department of Motor Vehicles on and after January 1, 1999. A notice setting forth the provisions of this section shall be provided to each person issued a disabled person's or disabled veteran's plate on and after January 1, 1998.

(k) For the purposes of this action "refueling service" means the service of pumping motor vehicle fuel into the fuel tank of a motor vehicle.

(Amended Sec. 26.4, Ch. 879, Stats. 1998. Effective January 1, 1999. Supersedes Ch. 878.)

16728. (a) Notwithstanding any other provision of law, motor carriers of property, as defined in Section 34601 of the Vehicle Code, may voluntarily elect to participate in uniform cargo liability rules, uniform bills of lading or receipts for property being transported, uniform cargo credit rules, joint line rates or routes, classifications, mileage guides, and pooling. Motor carriers of property that so elect shall comply with all requirements of Section 14501(c) of Title 49 of the United States Code and with federal regulations promulgated pursuant to that section. The Legislature intends by this section to provide to motor carriers of property the antitrust immunity authorized by state action pursuant to Section 14501(c) of Title 49 of the United States Code.

(b) The election authorized by this section shall be exercised in either of the following ways:

(1) Participation in an agreement pursuant to Section 13703 of Title 49 of the United States Code.

(2) Filing with the Department of Motor Vehicles a notice of adoption of any or all of the uniform cargo liability rules, uniform bills of lading or receipts for property being transported, uniform cargo credit rules, joint rates or routes, classifications, mileage guides, and pooling contained in an identified publication authorized by Section 13703 of Title 49 of the United States Code, along with a written certification issued by the organization establishing those uniform rules or provisions in accordance with Section 13703(g)(1)(B) of Title 49 of the United States Code, affirming participation of the motor carrier of property in the collective publication. The certification shall be made available for public inspection.

(c) The elections made by a motor carrier of property pursuant to this section may be canceled by the motor carrier.

(Amended Sec. 3, Ch. 829, Stats. 1998. Effective January 1, 1999.)

False or Misleading Advertising

17500.5. (a) It is unlawful for any person, firm, corporation or association to falsely represent by advertisement the quantity of any article so advertised that will be sold to any one customer on his demand in a single transaction, and willfully or negligently to fail to include in such advertisement a statement that any restriction that is in fact upon the quantity of any article so advertised that is sold or offered for sale to any one customer on his demand in a single transaction.

(b) Any person, firm, corporation, or association who, by means of such false or negligent advertisement or publicity, induces any individual retail purchaser and consumer to enter any place of business designated therein seeking to buy any article so advertised or publicized, and then refuses to sell to such person the article at the price advertised in any quantity then available for sale on said premises, shall be liable to each person so induced and refused, for the losses and expenses thereby incurred, and the sum of fifty dollars ($50) in addition thereto.

(c) Nothing in this section shall affect any right a seller may have to refuse to extend credit to a customer, and this section shall not be applicable to a customer purchasing for resale.

(d) The provisions of subdivision (b) are applicable only to actions brought in the name of, and on behalf of, a single plaintiff and shall not be applicable in multiple plaintiff or class actions.

(Added Ch. 1121, Stats. 1970. Effective November 23, 1970.)

17537.7. Except as to communications described in paragraph (2) of subdivision (n) of Section 11713.1 of the Vehicle Code, it is unlawful for any person to use the terms "invoice," "dealer invoice," "wholesale price," or similar terms that refer to a dealer's cost for a motor vehicle in an advertisement for the sale or lease of a vehicle, or advertise that the selling price of a vehicle is above, below, or at either of the following:

(a) The manufacturer's or distributor's invoice or selling price to a dealer.

(b) A dealer's cost.

(Added Sec. 1, Ch. 585, Stats. 1995. Effective January 1, 1996.)

Automobile Dealers

18450. It is a misdemeanor, in connection with the sale of a motor vehicle by a person engaged in the business of selling motor vehicles at retail, for such person to accept assignment of an insurance policy, or rights thereunder, pertaining to any motor vehicle traded in by the purchaser, unless all amounts realized on such policy or rights by such person be credited by the dealer to the buyer on the next monthly payment due or same shall be refunded to the buyer.

18451. The purchaser of a motor vehicle may recover from the seller in a civil action three times the amount realized on any insurance policy, or rights thereunder, assignment of which has been accepted in violation of Section 18450.

(Added Ch. 342, Stats. 1951.)

21701.1. (a) The owner or operator of a self-service storage facility or a household goods carrier, may, for a fee, transport individual storage containers to and from a self-service storage facility that he or she owns or operates. This transportation activity, whether performed by an owner, operator, or carrier, shall not be deemed transportation for compensation or hire as a business of used household goods and is not subject to regulation under Chapter 7 (commencing with Section 5101) of Division 2 of the Public Utilities Code, provided that all of the following requirements are met:

(1) The fee charged (A) to deliver an empty individual storage container to a customer and to transport the loaded container to a self-service storage facility or (B) to return a loaded individual storage container from a self-service storage facility to the customer does not exceed one hundred dollars ($100).

(2) The owner, operator, or carrier, or any affiliate of the owner, operator, or carrier, does not load, pack, or otherwise handle the contents of the container.

(3) The owner, operator, or carrier is registered under Chapter 2 (commencing with Section 34620) of Division 14.85 of the Vehicle Code or holds a permit under Chapter 7 (commencing with Section 5101) of Division 2 of the Public Utilities Code.

(4) The owner, operator, or carrier has procured and maintained cargo insurance in the amount of at least twenty thousand dollars ($20,000) per shipment. Proof of cargo insurance coverage shall be maintained on file and presented to the Department of Motor Vehicles or Public Utilities Commission upon written request.

(5) The owner, operator, or carrier shall disclose to the customer in advance the following information regarding the container transfer service offered, in a written document separate from others furnished at the time of disclosure:

(A) A detailed description of the transfer service, including a commitment to use its best efforts to place the container in an appropriate location designated by the customer.

(B) The dimensions and construction of the individual storage containers used.

(C) The unit charge, if any, for the container transfer service that is in addition to the storage charge or any other fees under the rental agreement.

(D) The availability of delivery or pickup by the customer of his or her goods at the self-service storage facility.

(E) The maximum allowable distance, measured from the self-service storage facility, for the initial pickup and final delivery of the loaded container.

(F) The precise terms of the company's right to move a container from the initial storage location at its own discretion and a statement that the customer will not be required to pay additional charges with respect to that transfer.

(G) Conspicuous disclosure in bold text of the allocation of responsibility for the risk of loss or damage to the customer's goods, including any disclaimer of the company's liability, and the procedure for presenting any claim regarding loss or damage to the company.

The disclosure of terms and conditions required by this subdivision, and the rental agreement, shall be received by the customer a minimum of 72 hours prior to delivery of the empty individual storage container; however, the customer may, in writing, knowingly and voluntarily waive that receipt. The company shall record in writing, and retain for a period of at least six months after the end of the rental, the time and method of delivery of the information, any waiver made by the customer, and the times and dates of initial pickup and redelivery of the containerized goods.

(6) No later than the time the empty individual storage container is delivered to the customer, the company shall provide the customer with an informational brochure containing the following information about loading the container:

(A) Packing and loading tips to minimize damage in transit.

(B) A suggestion that the customer make an inventory of the items as they are loaded and keep any other record (for example,

photographs or videotape) that may assist in any subsequent claims processing.

(C) A list of items that are impermissible to pack in the container (for example, flammable items).

(D) A list of items that are not recommended to be packed in light of foreseeable hazards inherent in the company's handling of the containers and in light of any limitation of liability contained in the rental agreement.

(b) Pickup and delivery of the individual storage containers shall be on a date agreed upon between the customer and the company. If the company requires the customer to be physically present at the time of pickup, the company shall in fact be at the customer's premises prepared to perform the service not more than four hours later than the scheduled time agreed to by the customer and company, and in the event of a preventable breach of that obligation by the company, the customer shall be entitled to receive a penalty of fifty dollars ($50) from the company and to elect rescission of the rental agreement without liability.

(c) No charge shall be assessed with respect to any movement of the container between self-service storage facilities by the company at its own discretion, nor for the delivery of a container to a customer's premises if the customer advises the company, at least 24 hours before the agreed time of container dropoff, orally or in writing, that he or she is rescinding the request for service.

(d) For purposes of this chapter, "individual storage container" means a container that meets all of the following requirements:

(1) It shall be fully enclosed and locked.

(2) It contains not less than 100 and not more than 1,100 cubic feet.

(3) It is constructed out of a durable material appropriate for repeated use. A box constructed out of cardboard or a similar material shall not constitute an individual storage container for purposes of this section.

(e) Nothing in this section shall be construed to limit the authority of the Public Utilities Commission to investigate and commence an appropriate enforcement action pursuant to Chapter 7 (commencing with Section 5101) of Division 2 of the Public Utilities Code against any person transporting household goods in individual storage containers in a manner other than that described in this section.

(Amended Sec. 17, Ch. 83, Stats. 1999. Effective January 1, 2000.)

Vehicle and Vessel Liens

21702.5. (a) Any lien on a vehicle or vessel subject to registration or identification under the Vehicle Code which has attached and is set forth in the documents of title to the vehicle or vessel shall have priority over any lien created pursuant to this chapter.

(b) Any lien created pursuant to this chapter on a vehicle or vessel subject to registration or identification under the Vehicle Code shall be enforced in accordance with the provisions of Section 3071 of the Civil Code, in the case of a vehicle, or Section 503 of the Harbors and Navigation Code, in the case of a vessel, and not as prescribed in Sections 21705 to 21711, inclusive, except that actions may be conducted as provided in Section 21710.

(c) Any lien created pursuant to this chapter on a vehicle or vessel subject to registration or identification under the Vehicle Code shall not include any charges for rent, labor, or other services incurred pursuant to the rental agreement, accruing more than 60 days after the date the lien imposed pursuant to this chapter attaches, as set forth in Section 21705, and before application is made for authorization to conduct the lien sale pursuant to the requirements of Section 3071 of the Civil Code or Section 503 of the Harbors and Navigation Code.

(d) Any proceeds from a lien sale shall be disposed of pursuant to Section 3073 of the Civil Code, in the case of a vehicle, or Section 507.5 of the Harbors and Navigation Code, in the case of a vessel.

(Added Ch. 1360, Stats. 1984. Effective January 1, 1985.)

23056. The department shall send a copy of the information sheet prepared by the Department of the California Highway Patrol pursuant to Section 2426 of the Vehicle Code with each renewal notice to any on-sale licensee.

(Amended Ch. 838, Stats. 1992. Effective January 1, 1993.)

False Identification Carried by Minors

25661. Any person under the age of 21 years who presents or offers to any licensee, his agent or employee, any written, printed, or photostatic evidence of age and identity which is false, fraudulent or not actually his own for the purpose of ordering, purchasing, attempting to purchase or otherwise procuring or attempting to procure, the serving of any alcoholic beverage, or who has in his possession any false or fraudulent written, printed, or photostatic evidence of age and identity, is guilty of a misdemeanor and shall be punished by a fine of at least two hundred dollars ($200), no part of which shall be suspended.

(Amended Ch. 1092, Stats. 1983. Effective September 27, 1983. Operative January 1, 1984.)

Minor Possessing Alcoholic Beverage

25662. (a) Any person under the age of 21 years who has any alcoholic beverage in his or her possession on any street or highway or in any public place or in any place open to the public is guilty of a misdemeanor. This section does not apply to possession by a person under the age of 21 years making a delivery of an alcoholic beverage in pursuance of the order of his or her parent, responsible adult relative, or any other adult designated by the parent or legal guardian, or in pursuance of his or her employment. That person shall have a complete defense if he or she was following, in a timely manner, the reasonable instructions of his or her parent, legal guardian, responsible adult relative, or adult designee relating to disposition of the alcoholic beverage.

(b) Unless otherwise provided by law, where a peace officer has lawfully entered the premises, the peace officer may seize any alcoholic beverage in plain view that is in the possession of, or provided to, a person under the age of 21 years at social gatherings, when those gatherings are open to the public, 10 or more persons under the age of 21 years are participating, persons under the age of 21 years are consuming alcoholic beverages, and there is no supervision of the social gathering by a parent or guardian of one or more of the participants.

Where a peace officer has seized alcoholic beverages pursuant to this subdivision, the officer may destroy any alcoholic beverage contained in an opened container and in the possession of, or provided to, a person under the age of 21 years, and, with respect to alcoholic beverages in unopened containers, the officer shall impound those beverages for a period not to exceed seven working days pending a request for the release of those beverages by a person 21 years of age or older who is the lawful owner or resident of the property upon which the alcoholic beverages were seized. If no one requests release of the seized alcoholic beverages within that period, those beverages may be destroyed.

(Amended Sec. 13, Ch. 17, Stats. 1997. Effective January 1, 1998.)

25666.5. If a person is convicted of a violation of subdivision (b) of Section 25658, or Section 25658.5, 25661, or 25662 and is granted probation, the court may order, with the consent of the defendant, as a term and condition of probation, in addition to any other term and condition required or authorized by law, that the defendant participate in the program prescribed in Article 3 (commencing with Section 23509) of Chapter 12 of Division 11.5 of the Vehicle Code.

(Amended Sec. 1, Ch. 118, Stats. 1998. Effective January 1, 1999. Operative July 1, 1999.)

CIVIL CODE

Service by Certified Mail in Lieu of Registered

17. Wherever any notice or other communication is required by this code to be mailed by registered mail, the mailing of such notice or other communication by certified mail shall be deemed to be a sufficient compliance with the requirements of law.

(Added Ch. 426, Stats. 1959.)

Blind and Other Physically Disabled Persons

54. (a) Individuals with disabilities have the same right as the general public to the full and free use of the streets, highways, sidewalks, walkways, public buildings, medical facilities, including hospitals, clinics, and physicians' offices, public facilities, and other public places.

(b) "Disability," as used in this part, means any of the following with respect to an individual:

(1) A physical or mental impairment that substantially limits one or more of the major life activities of the individual.

(2) A record of such an impairment.

(3) Being regarded as having such an impairment.

(c) A violation of the right of an individual under the Americans with Disabilities Act of 1990 (Public Law 101-336) also constitutes a violation of this section.

(Amended Sec. 1, Ch. 498, Stats. 1996. Effective January 1, 1997.)

Emancipated Minor

62. Any person under the age of 18 years who comes within the following description is an emancipated minor:

(a) Who has entered into a valid marriage, whether or not such marriage was terminated by dissolution; or

(b) Who is on active duty with any of the armed forces of the United States of
America; or

(c) Who has received a declaration of emancipation pursuant to Section 64.

(Amended Ch. 523, Stats. 1979. Effective September 7, 1979.)

68. No public entity or employee shall be liable for any loss or injury resulting directly or indirectly from false or inaccurate information contained in the Department of Motor Vehicles records system or identification cards as provided in this part.

(Added Ch. 1059, Stats. 1978. Effective January 1, 1979.)

Definitions

799.24. (a) "Recreational vehicle" means a recreational vehicle as defined in Section 18010 or the Health and Safety Code.

(Repealed and Added Ch. 1160, Stats. 1986. Effective January 1, 1991.)

Definitions of Fraud and Deceit

1572. Actual fraud, within the meaning of this chapter, consists in any of the following acts, committed by a party to the contract, or with his connivance, with intent to deceive another party thereto, or to induce him to enter into the contract:

1. The suggestion, as a fact, of that which is not true, by one who does not believe it to be true;

2. The positive assertion, in a manner not warranted by the information of the person making it, of that which is not true, though he believes it to be true;

3. The suppression of that which is true, by one having knowledge or belief of that fact;

4. A promise made without any intention of performing it; or,

5. Any other act fitted to deceive.

1573. Constructive fraud consists:

1. In any breach of duty which, without an actually fraudulent intent, gains an advantage to the person in fault, or anyone claiming under him, by misleading another to his prejudice, or to the prejudice of anyone claiming under him; or,

2. In any such act or omission as the law specially declares to be faaudulent, without respect to actual fraud.

1633. (a) Notwithstanding any other provision of law, an application by a prospective customer to enter into a brokerage agreement with a broker-dealer, which application is transmitted electronically and is accompanied by the prospective customer's electronic signature or digital signature as described in subdivisions (d), (e), (f), and (g), shall be deemed, upon acceptance by the broker-dealer, to be a fully executed, valid, enforceable, and irrevocable written contract, unless grounds exist which would render any other contract invalid, unenforceable, or revocable.

(b) Nothing in this section abrogates or limits any existing law that would otherwise apply to contracts governed by this section, or any theory of liability or any remedy otherwise available at law.

(c) "Broker-dealer," for purposes of this section, means any broker-dealer licensed pursuant to Part 3 (commencing with Section 25200) of Division 1 of Title 4 of the Corporations Code or exempted from licensing pursuant thereto.

(d) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(e) "Electronic record" means a record created, generated, sent, communicated, received, or stored electronically.

(f) "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with an electronic record and executed or adopted by a person with the intent to sign the electronic record.

(g) "Digital signature," for the purposes of this section, means an electronic identifier, created by a computer, that is intended by the party using it to have the same force and effect as the use of a manual signature. The use of a digital signature shall have the same force or effect as a manual signature if it embodies all of the following attributes:

(1) It is unique to the person using it.

(2) It is capable of verification.

(3) It is under the sole control of the person using it.

(4) It is linked to data in a manner that if the data is changed, the digital signature is invalidated.

(h) The use of an electronic signature or digital signature shall have the same force or effect as a manual signature.

(i) The application that is transmitted electronically pursuant to subdivision (a) shall comply with all applicable federal and state securities laws and regulations relating to disclosures to prospective customers. Unless those laws and regulations currently require disclosures to be displayed or printed in bold, to be of specific type or print size, and to be placed prominently at specified locations within the application, the disclosures shall be displayed prominently and printed in capital letters, in bold type and displayed or printed immediately above the signature line. Disclosures shall be written in plain English. The full text of the disclosures shall be contained in the application as required by this subdivision.

(j) Whenever a disclosure to a prospective customer is required under federal or state law or regulation to be confirmed as having been made, the application that is transmitted electronically pursuant to subdivision (a) shall provide a means by which the prospective customer shall confirm that he or she has read the disclosure.

(Added Sec. 1, Ch. 213, Stats. 1999. Effective July 28, 1999.)

1710. A deceit, withing the meaning of the last section, is either:

1. The suggestion, as a fact, of that which is not true, by one who does not believe it to be true;

2. The assertion, as a fact, of that which is not true, by one who has no reasonable ground for believing it to be true;

3. The suppression of a fact, by one who is bound to disclose it, or who gives information of other facts which are likely to mislead for want of communication of that fact; or,

4. A promise, made without any intention of performing it.

Sale of Merchandise with Identification Number Defaced

1710.1. Any person who, with intent to defraud, sells or disposes of a radio, piano, phonograph, sewing machine, washing machine, typewriter, adding machine, comptometer, bicycle, firearm, safe, vacuum cleaner, dictaphone, watch, watch movement, watchcase, or any other mechanical or electrical device, appliance, contrivance, material, piece of apparatus or equipment, from which the manufacturer's nameplate, serial number or any other distinguishing number or identification mark has been removed, defaced, covered, altered or destroyed, is civilly liable to the manufacturer in the sum of five hundred dollars ($500) per transaction and civilly liable to the purchaser for treble the actual damages sustained by the purchaser.

This section does not apply to those cases or instances where any of the changes or alterations enumerated in this section have been customarily made or done as an established practice in the ordinary and regular conduct of business by the original manufacturer or his duly appointed direct representative or under specific authorization from the original manufacturer.

(Added Ch. 1713, Stats. 1971. Effective March 4, 1971.)

Responsibility for Willful Acts and Negligence

1714. (a) Everyone is responsible, not only for the result of his or her willful acts, but also for an injury occasioned to another by his or her want of ordinary care or skill in the management of his or her property or person, except so far as the latter has, willfully or by want of ordinary care, brought the injury upon himself or herself. The design, distribution, or marketing of firearms and ammunition is not exempt from the duty to use ordinary care and skill that is required by this section. The extent of liability in these cases is defined by the Title on Compensatory Relief.

(b) It is the intent of the Legislature to abrogate the holdings in cases such as Vesely v. Sager (1971) 5 Cal.3d 153, Bernhard v. Harrah's Club (1976) 16 Cal.3d 313, and Coulter v. Superior Court (1978) 21 Cal.3d 144 and to reinstate the prior judicial interpretation of this section as it relates to proximate cause for injuries incurred as a result of furnishing alcoholic beverages to an intoxicated person, namely that the furnishing of alcoholic beverages is not the proximate cause of injuries resulting from intoxication, but rather the consumption of alcoholic beverages is the proximate cause of injuries inflicted upon another by an intoxicated person.

(c) No social host who furnishes alcoholic beverages to any person may be held legally accountable for damages suffered by that person, or for injury to the person or property of, or death of, any third person, resulting from the consumption of those beverages.

(Amended Sec. 15, Ch. 62, Stats. 2003. Effective January 1, 2004.)

1785.15.3. (a) In addition to any other rights the consumer may have under this title, every consumer credit reporting agency, after being contacted by telephone, mail, or in person by any consumer who has reason to believe he or she may be a victim of identity theft, shall promptly provide to that consumer a statement, written in a clear and conspicuous manner, describing the statutory rights of victims of identity theft under this title.

(b) Every consumer credit reporting agency shall, upon the receipt from a victim of identity theft of a police report prepared pursuant to Section 530.6 of the Penal Code, or a valid investigative report made by a Department of Motor Vehicles investigator with peace officer status regarding the public offenses described in Section 530.5 of the Penal Code, provide the victim, free of charge and upon request, with up to 12 copies of his or her file during a consecutive 12-month period, not to exceed one copy per month, following the date of the police report. Notwithstanding any other provision of this title, the maximum number of free reports a victim of identity theft is entitled to obtain under this title is 12 per year, as provided by this subdivision.

(c) Subdivision (a) does not apply to a consumer reporting agency that acts only as a reseller of credit information by assembling and merging information contained in the database of another consumer reporting agency or agencies and that does not maintain a permanent database of credit information from which new credit reports are produced.

(d) The provisions of this section shall become effective July 1, 2003.

(Added Sec. 2, Ch. 860, Stats. 2002. Effective January 1, 2003. Operative July 1, 2003.)

1785.16. (a) If the completeness or accuracy of any item of information contained in his or her file is disputed by a consumer, and the dispute is conveyed directly to the consumer credit reporting agency by the consumer or user on behalf of the consumer, the consumer credit reporting agency shall within a reasonable period of time and without charge, reinvestigate and record the current status of the disputed information before the end of the 30-business-day period beginning on the date the agency receives notice of the dispute from the consumer or user, unless the consumer credit reporting agency has reasonable grounds to believe and determines that the dispute by the consumer is frivolous or irrelevant, including by reason of a failure of the consumer to provide sufficient information, as requested by the consumer credit reporting agency, to investigate the dispute. Unless the consumer credit reporting agency determines that the dispute is frivolous or irrelevant, before the end of the five-business-day period beginning on the date the consumer credit reporting agency receives notice of dispute under this section, the agency shall notify any person who provided information in dispute at the address and in the manner specified by the person. A consumer credit reporting agency may require that disputes by consumers be in writing.

(b) In conducting that reinvestigation the consumer credit reporting agency shall review and consider all relevant information submitted by the consumer with respect to the disputed item of information. If the consumer credit reporting agency determines that the dispute is frivolous or irrelevant, it shall notify the consumer by mail or, if authorized by the consumer for that purpose, by any other means available to the consumer credit reporting agency, within five business days after that determination is made that it is terminating its reinvestigation of the item of information. In this notification, the consumer credit reporting agency shall state the specific reasons why it has determined that the consumer"s dispute is frivolous or irrelevant. If the disputed item of information is found to be inaccurate, missing, or can no longer be verified by the evidence submitted, the consumer credit reporting agency shall promptly add, correct, or delete that information from the consumer"s file.

(c) No information may be reinserted in a consumer"s file after having been deleted pursuant to this section unless the person who furnished the information certifies that the information is accurate. If any information deleted from a consumer"s file is reinserted in the file, the consumer credit reporting agency shall promptly notify the consumer of the reinsertion in writing or, if authorized by the consumer for that purpose, by any other means available to the consumer credit reporting agency. As part of, or in addition to, this notice the consumer credit reporting agency shall, within five business days of reinserting the information, provide the consumer in writing (1) a statement that the disputed information has been reinserted, (2) a notice that the agency will provide to the consumer, within 15 days following a request, the name, address, and telephone number of any furnisher of information contacted or which contacted the consumer credit reporting agency in connection with the reinsertion, (3) the toll-free telephone number of the consumer credit reporting agency that the consumer can use to obtain this name, address, and telephone number, and (4) a notice that the consumer has the right to a reinvestigation of the information reinserted by the consumer credit reporting agency and to add a statement to his or her file disputing the accuracy or completeness of the information.

(d) A consumer credit reporting agency shall provide written notice to the consumer of the results of any reinvestigation under this subdivision, within five days of completion of the reinvestigation. The notice shall include (1) a statement that the reinvestigation is completed, (2) a consumer credit report that is based on the consumer"s file as that file is revised as a result of the reinvestigation, (3) a description or indication of any changes made in the consumer credit report as a result of those revisions to the consumer"s file and a description of any changes made or sought by the consumer that were not made and an explanation why they were not made, (4) a notice that, if requested by the consumer, a description of the procedure used to determine the accuracy and completeness of the information shall be provided to the consumer by the consumer credit reporting agency, including the name, business address, and telephone number of any furnisher of information contacted in connection with that information, (5) a notice that the consumer has the right to add a statement to the consumer"s file disputing the accuracy or completeness of the information, (6) a notice that the consumer has the right to request that the consumer credit reporting agency furnish notifications under subdivision (h), (7) a notice that the dispute will remain on file with the agency as long as the credit information is used, and (8) a statement about the details of the dispute will be furnished to any recipient as long as the credit information is retained in the agency's data base. A consumer credit reporting agency shall provide the notice pursuant to this subdivision respecting the procedure used to determine the accuracy and completeness of information, not later than 15 days after receiving a request from the consumer.

(e) The presence of information in the consumer's file that contradicts the contention of the consumer shall not, in and of itself, constitute reasonable grounds for believing the dispute is frivolous or irrelevant.

(f) If the consumer credit reporting agency determines that the dispute is frivolous or irrelevant, or if the reinvestigation does not resolve the dispute, or if the information is reinserted into the consumer"s file pursuant to subdivision (c), the consumer may file a brief statement setting forth the nature of the dispute. The consumer credit reporting agency may limit these statements to not more than 100 words if it provides the consumer with assistance in writing a clear summary of the dispute.

(g) Whenever a statement of dispute is filed, the consumer credit reporting agency shall, in any subsequent consumer credit report containing the information in question, clearly note that the

information is disputed by the consumer and shall include in the report either the consumer"s statement or a clear and accurate summary thereof.

(h) Following the deletion of information from a consumer"s file pursuant to this section, or following the filing of a statement of dispute pursuant to subdivision (f), the consumer credit reporting agency, at the request of the consumer, shall furnish notification that the item of information has been deleted or that the item of information is disputed. In the case of disputed information, the notification shall include the statement or summary of the dispute filed pursuant to subdivision (f). This notification shall be furnished to any person designated by the consumer who has, within two years prior to the deletion or the filing of the dispute, received a consumer credit report concerning the consumer for employment purposes, or who has, within 12 months of the deletion or the filing of the dispute, received a consumer credit report concerning the consumer for any other purpose, if these consumer credit reports contained the deleted or disputed information. The consumer credit reporting agency shall clearly and conspicuously disclose to the consumer his or her rights to make a request for this notification. The disclosure shall be made at or prior to the time the information is deleted pursuant to this section or the consumer's statement regarding the disputed information is received pursuant to subdivision (f).

(i) A consumer credit reporting agency shall maintain reasonable procedures to prevent the reappearance in a consumer"s file and in consumer credit reports of information that has been deleted pursuant to this section and not reinserted pursuant to subdivision (c).

(j) If the consumer"s dispute is resolved by deletion of the disputed information within three business days, beginning with the day the consumer credit reporting agency receives notice of the dispute in accordance with subdivision (a), and provided that verification thereof is provided to the consumer in writing within five business days following the deletion, then the consumer credit reporting agency shall be exempt from requirements for further action under subdivisions (d), (f), and (g).

(k) If a consumer submits to a credit reporting agency a copy of a valid police report, or a valid investigative report made by a Department of Motor Vehicles investigator with peace officer status, filed pursuant to Section 530.5 of the Penal Code, the consumer credit reporting agency shall promptly and permanently block reporting any information that the consumer alleges appears on his or her credit report as a result of a violation of Section 530.5 of the Penal Code so that the information cannot be reported. The consumer credit reporting agency shall promptly notify the furnisher of the information that the information has been so blocked. Furnishers of information and consumer credit reporting agencies shall ensure that information is unblocked only upon a preponderance of the evidence establishing the facts required under paragraph (1), (2), or (3). The permanently blocked information shall be unblocked only if: (1) the information was blocked due to a material misrepresentation of fact by the consumer or fraud, or (2) the consumer agrees that the blocked information, or portions of the blocked information, were blocked in error, or (3) the consumer knowingly obtained possession of goods, services, or moneys as a result of the blocked transaction or transactions or the consumer should have known that he or she obtained possession of goods, services, or moneys as a result of the blocked transaction or transactions. If blocked information is unblocked pursuant to this subdivision, the consumer shall be promptly notified in the same manner as consumers are notified of the reinsertion of information pursuant to subdivision (c). The prior presence of the blocked information in the consumer credit reporting agency"s file on the consumer is not evidence of whether the consumer knew or should have known that he or she obtained possession of any goods, services, or moneys. For the purposes of this subdivision, fraud may be demonstrated by circumstantial evidence. In unblocking information pursuant to this subdivision, furnishers and consumer credit reporting agencies shall be subject to their respective requirements pursuant to this title regarding the completeness and accuracy of information.

(*l*) In unblocking information as described in subdivision (k), a consumer reporting agency shall comply with all requirements of this section and 15 U.S.C. Sec. 1681i relating to reinvestigating disputed information. In addition, a consumer reporting agency shall accept the consumer's version of the disputed information and correct or delete the disputed item when the consumer submits to the consumer reporting agency documentation obtained from the source of the item in dispute or from public records confirming that the report was inaccurate or incomplete, unless the consumer reporting agency, in the exercise of good faith and reasonable judgment, has substantial reason based on specific, verifiable facts to doubt the authenticity of the documentation submitted and notifies the consumer in writing of that decision, explaining its reasons for unblocking the information and setting forth the specific, verifiable facts on which the decision was based.

(m) Any provision in a contract that prohibits the disclosure of a credit score by a person who makes or arranges loans or a consumer credit reporting agency is void. A lender shall not have liability under any contractual provision for disclosure of a credit score.

(Amended Sec. 3, Ch. 354, Stats. 2001. Effective January 1, 2002.)

1785.16.3. The provisions of subdivisions (k) and (l) of Section 1785.16 do not apply to a consumer reporting agency that acts only as a reseller of credit information by assembling and merging information contained in the database of another consumer reporting agency or agencies, and that does not maintain a permanent database of credit information from which new credit reports are produced.

(Added Sec. 2, Ch. 1029, Stats. 2002. Effective September 28, 2002.)

Consumer Warranty Protection

1790. This chapter may be cited as the "Song-Beverly Consumer Warranty Act."

(Added Ch. 1333, Stats. 1970.)

1790.1. Any waiver by the buyer of consumer goods of the provisions of this chapter, except as expressly provided in this chapter, shall be deemed contrary to public policy and shall be unenforceable and void.

(Added Ch. 1333, Stats. 1970.)

1790.3. The provisions of this chapter shall not affect the rights and obligations of parties determined by reference to the Commercial Code except that, where the provisions of the Commercial Code conflict with the rights guaranteed to buyers of consumer goods under the provisions of this chapter, the provisions of this chapter shall prevail.

(Added Ch. 1333, Stats. 1970.)

1790.4. The remedies provided by this chapter are cumulative and shall not be construed as restricting any remedy that is otherwise available, and, in particular, shall not be construed to supplant the provisions of the Unfair Practices Act.

(Amended Ch. 416, Stats. 1976.)

1791. As used in this chapter:

(a) "Consumer goods" means any new product or part thereof that is used, bought, or leased for use primarily for personal, family, or household purposes, except for clothing and consumables. "Consumer goods" shall include new and used assistive devices sold at retail.

(b) "Buyer" or "retail buyer" means any individual who buys consumer goods from a person engaged in the business of manufacturing, distributing, or selling consumer goods at retail. As used in this subdivision, "person" means any individual, partnership, corporation, limited liability company, association, or other legal entity that engages in any such business.

(c) "Clothing" means any wearing apparel, worn for any purpose, including under and outer garments, shoes, and accessories composed primarily of woven material, natural or synthetic yarn, fiber, or leather or similar fabric.

(d) "Consumables" means any product that is intended for consumption by individuals, or use by individuals for purposes of personal care or in the performance of services ordinarily rendered within the household, and that usually is consumed or expended in the course of consumption or use.

(e) "Distributor" means any individual, partnership, corporation, association, or other legal relationship that stands between the manufacturer and the retail seller in purchases, consignments, or contracts for sale of consumer goods.

(f) "Independent repair or service facility" or "independent service dealer" means any individual, partnership, corporation, association, or other legal entity, not an employee or subsidiary of a manufacturer or distributor, that engages in the business of servicing and repairing consumer goods.

(g) "Lease" means any contract for the lease or bailment for the use of consumer goods by an individual, for a term exceeding four months, primarily for personal, family, or household purposes,

whether or not it is agreed that the lessee bears the risk of the consumer goods' depreciation.

(h) "Lessee" means an individual who leases consumer goods under a lease.

(i) "Lessor" means a person who regularly leases consumer goods under a lease.

(j) "Manufacturer" means any individual, partnership, corporation, association, or other legal relationship that manufactures, assembles, or produces consumer goods.

(k) "Place of business" means, for the purposes of any retail seller that sells consumer goods by catalog or mail order, the distribution point for these goods.

(*l*) "Retail seller," "seller," or "retailer" means any individual, partnership, corporation, association, or other legal relationship that engages in the business of selling or leasing consumer goods to retail buyers.

(m) "Return to the retail seller" means, for the purposes of any retail seller that sells consumer goods by catalog or mail order, the retail seller's place of business, as defined in subdivision (k).

(n) "Sale" means either of the following:

(1) The passing of title from the seller to the buyer for a price.

(2) A consignment for sale.

(o) "Service contract" means a contract in writing to perform, for an additional cost, over a fixed period of time or for a specified duration, services relating to the maintenance, replacement, or repair of a consumer product, except that this term does not include a policy of automobile insurance, as defined in Section 116 of the Insurance Code.

(p) "Service contract administrator" or "administrator" means a person, other than a service contract seller or an insurer admitted to do business in this state, who performs or arranges, or has an affiliate who performs or arranges, the collection, maintenance, or disbursement of moneys to compensate any party for claims or repairs pursuant to a service contract, and who also performs or arranges, or has an affiliate who performs or arranges, any of the following activities on behalf of service contract sellers:

(1) Providing service contract sellers with service contract forms.

(2) Participating in the adjustment of claims arising from service contracts.

(3) Arranging on behalf of service contract sellers the insurance required by Section 9855.2 of the Business and Professions Code. A service contract administrator shall not be an obligor on a service contract.

(q) "Service contract seller" or "seller" means a person who sells or offers to sell a service contract to a service contractholder, including a person who is the obligor under a service contract sold by the seller, manufacturer, or repairer of the product covered by the service contract.

(r) "Service contractor" means a service contract administrator or a service contract seller.

(s) "Assistive device" means any instrument, apparatus, or contrivance, including any component or part thereof or accessory thereto, that is used or intended to be used, to assist an individual with a disability in the mitigation or treatment of an injury or disease or to assist or affect or replace the structure or any function of the body of an individual with a disability, except that this term does not include prescriptive lenses and other ophthalmic goods unless they are sold or dispensed to a blind person, as defined in Section 19153 of the Welfare and Institutions Code, and unless they are intended to assist the limited vision of the person so disabled.

(t) "Catalog or similar sale" means a sale in which neither the seller nor any employee or agent of the seller nor any person related to the seller nor any person with a financial interest in the sale participates in the diagnosis of the buyer's condition or in the selection or fitting of the device.

(u) "Home appliance" means any refrigerator, freezer, range, microwave oven, washer, dryer, dishwasher, garbage disposal, trash compactor, room air-conditioner, or other kind of appliance product normally used or sold for personal, family, or household purposes.

(v) "Home electronic product" means any television, radio, antenna rotator, audio or video recorder or playback equipment, video camera, video game, video monitor, computer equipment, telephone, telecommunications equipment, electronic alarm system, electronic appliance control system, or other kind of electronic product, if it is normally used or sold for personal, family, or household purposes. The term includes any electronic accessory that is normally used or sold with a home electronic product for one of those purposes. The term excludes any single product with a wholesale price to the retail seller of less than fifty dollars ($50).

(w) "Obligor" is the entity financially and legally obligated under the terms of a service contract.

This section shall remain in effect only until January 1, 2008, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2008, deletes or extends that date.

(Amended Sec. 63, Ch. 405, Stats. 2002. Effective January 1, 2003.)

NOTE: The preceding section is repealed on January 1, 2008, and the following section becomes operative.

1791. As used in this chapter:

(a) "Consumer goods" means any new product or part thereof that is used, bought, or leased for use primarily for personal, family, or household purposes, except for clothing and consumables. "Consumer goods" shall include new and used assistive devices sold at retail.

(b) "Buyer" or "retail buyer" means any individual who buys consumer goods from a person engaged in the business of manufacturing, distributing, or selling consumer goods at retail. As used in this subdivision, "person" means any individual, partnership, corporation, limited liability company, association, or other legal entity that engages in any of these businesses.

(c) "Clothing" means any wearing apparel, worn for any purpose, including under and outer garments, shoes, and accessories composed primarily of woven material, natural or synthetic yarn, fiber, or leather or similar fabric.

(d) "Consumables" means any product that is intended for consumption by individuals, or use by individuals for purposes of personal care or in the performance of services ordinarily rendered within the household, and that usually is consumed or expended in the course of consumption or use.

(e) "Distributor" means any individual, partnership, corporation, association, or other legal relationship that stands between the manufacturer and the retail seller in purchases, consignments, or contracts for sale of consumer goods.

(f) "Independent repair or service facility" or "independent service dealer" means any individual, partnership, corporation, association, or other legal entity, not an employee or subsidiary of a manufacturer or distributor, that engages in the business of servicing and repairing consumer goods.

(g) "Lease" means any contract for the lease or bailment for the use of consumer goods by an individual, for a term exceeding four months, primarily for personal, family, or household purposes, whether or not it is agreed that the lessee bears the risk of the consumer goods' depreciation.

(h) "Lessee" means an individual who leases consumer goods under a lease.

(i) "Lessor" means a person who regularly leases consumer goods under a lease.

(j) "Manufacturer" means any individual, partnership, corporation, association, or other legal relationship that manufactures, assembles, or produces consumer goods.

(k) "Place of business" means, for the purposes of any retail seller that sells consumer goods by catalog or mail order, the distribution point for consumer goods.

(*l*) "Retail seller," "seller," or "retailer" means any individual, partnership, corporation, association, or other legal relationship that engages in the business of selling or leasing consumer goods to retail buyers.

(m) "Return to the retail seller" means, for the purposes of any retail seller that sells consumer goods by catalog or mail order, the retail seller's place of business, as defined in subdivision (k).

(n) "Sale" means either of the following:

(1) The passing of title from the seller to the buyer for a price.

(2) A consignment for sale.

(o) "Service contract" means a contract in writing to perform, over a fixed period of time or for a specified duration, services relating to the maintenance or repair of a consumer product, except that this term does not include a policy of automobile insurance, as defined in Section 116 of the Insurance Code.

(p) "Assistive device" means any instrument, apparatus, or contrivance, including any component or part thereof or accessory thereto, that is used or intended to be used, to assist an individual with a disability in the mitigation or treatment of an injury or disease or to assist or affect or replace the structure or any function of the

body of an individual with a disability, except that this term does not include prescriptive lenses and other ophthalmic goods unless they are sold or dispensed to a blind person, as defined in Section 19153 of the Welfare and Institutions Code and unless they are intended to assist the limited vision of the person so disabled.

(q) "Catalog or similar sale" means a sale in which neither the seller nor any employee or agent of the seller nor any person related to the seller nor any person with a financial interest in the sale participates in the diagnosis of the buyer's condition or in the selection or fitting of the device.

(r) "Home appliance" means any refrigerator, freezer, range, microwave oven, washer, dryer, dishwasher, garbage disposal, trash compactor, or room air-conditioner normally used or sold for personal, family, or household purposes.

(s) "Home electronic product" means any television, radio, antenna rotator, audio or video recorder or playback equipment, video camera, video game, video monitor, computer equipment, telephone, telecommunications equipment, electronic alarm system, electronic appliance control system, or other kind of electronic product, if it is normally used or sold for personal, family, or household purposes. The term includes any electronic accessory that is normally used or sold with a home electronic product for one of those purposes. The term excludes any single product with a wholesale price to the retail seller of less than fifty dollars ($50).

This section shall become operative on January 1, 2008.

(Amended Sec. 62, Ch. 405, Stats. 2002. Effective January 1, 2003.)

1791.1. As used in this chapter:

(a) "Implied warranty of merchantability" or "implied warranty that goods are merchantable" means that the consumer goods meet each of the following:

(1) Pass without objection in the trade under the contract description.

(2) Are fit for the ordinary purposes for which such goods are used.

(3) Are adequately contained, packaged, and labeled.

(4) Conform to the promises or affirmations of fact made on the container or label.

(b) "Implied warranty of fitness" means (1) that when the retailer, distributor, or manufacturer has reason to know any particular purpose for which the consumer goods are required, and further, that the buyer is relying on the skill and judgment of the seller to select and furnish suitable goods, then there is an implied warranty that the goods shall be fit for such purpose and (2) that when there is a sale of an assistive device sold at retail in this state, then there is an implied warranty by the retailer that the device is specifically fit for the particular needs of the buyer.

(c) The duration of the implied warranty of merchantability and where present the implied warranty of fitness shall be coextensive in duration with an express warranty which accompanies the consumer goods, provided the duration of the express warranty is reasonable; but in no event shall such implied warranty have a duration of less than 60 days nor more than one year following the sale of new consumer goods to a retail buyer. Where no duration for an express warranty is stated with respect to consumer goods, or parts thereof, the duration of the implied warranty shall be the maximum period prescribed above.

(d) Any buyer of consumer goods injured by a breach of the implied warranty of merchantability and where applicable by a breach of the implied warranty of fitness has the remedies provided in Chapter 6 (commencing with Section 2601) and Chapter 7 (commencing with Section 2701) of Division 2 of the Commercial Code, and, in any action brought under such provisions, Section 1794 of this chapter shall apply.

(Amended Ch. 1023, Stats. 1979. Effective January 1, 1980.)

1791.2. (a) "Express warranty" means:

(1) A written statement arising out of a sale to the consumer of a consumer good pursuant to which the manufacturer, distributor, or retailer undertakes to preserve or maintain the utility or performance of the consumer good or provide compensation if there is a failure in utility or performance; or

(2) In the event of any sample or model, that the whole of the goods conforms to such sample or model.

(b) It is not necessary to the creation of an express warranty that formal words such as "warrant" or "guarantee" be used, but if such words are used then an express warranty is created. An affirmation merely of the value of the goods or a statement purporting to be merely an opinion or commendation of the goods does not create a warranty.

(c) Statements or representations such as expressions of general policy concerning customer satisfaction which are not subject to any limitation do not create an express warranty.

(Amended Ch. 991, Stats. 1978. Effective January 1, 1979.)

1791.3. As used in this chapter, a sale "as is" or "with all faults" means that the manufacturer, distributor, and retailer disclaim all implied warranties that would otherwise attach to the sale of consumer goods under the provisions of this chapter.

(Added Ch. 1333, Stats. 1970.)

1792. Unless disclaimed in the manner prescribed by this chapter, every sale of consumer goods that are sold at retail in this state shall be accompanied by the manufacturer's and the retail seller's implied warranty that the goods are merchantable. The retail seller shall have a right of indemnity against the manufacturer in the amount of any liability under this section.

(Amended Ch. 991, Stats. 1978. Effective January 1, 1979.)

1792.1. Every sale of consumer goods that are sold at retail in this state by a manufacturer who has reason to know at the time of the retail sale that the goods are required for a particular purpose and that the buyer is relying on the manufacturer's skill or judgment to select or furnish suitable goods shall be accompanied by such manufacturer's implied warranty of fitness.

(Amended Ch. 991, Stats. 1978. Effective January 1, 1979.)

1792.2. (a) Every sale of consumer goods that are sold at retail in this state by a retailer or distributor who has reason to know at the time of the retail sale that the goods are required for a particular purpose, and that the buyer is relying on the retailer's or distributor's skill or judgment to select or furnish suitable goods shall be accompanied by such retailer's or distributor's implied warranty that the goods are fit for that purpose.

(b) Every sale of an assistive device sold at retail in this state shall be accompanied by the retail seller's implied warranty that the device is specifically fit for the particular needs of the buyer.

(Amended Ch. 1023, Stats. 1979. Effective January 1, 1980.)

1792.3. No implied warranty of merchantability and, where applicable, no implied warranty of fitness shall be waived, except in the case of a sale of consumer goods on an "as is" or "with all faults" basis where the provisions of this chapter affecting "as is" or "with all faults" sales are strictly complied with.

(Added Ch. 1333, Stats. 1970.)

1792.4. (a) No sale of goods, governed by the provisions of this chapter, on an "as is" or "with all faults" basis, shall be effective to disclaim the implied warranty of merchantability or, where applicable, the implied warranty of fitness, unless a conspicuous writing is attached to the goods which clearly informs the buyer, prior to the sale, in simple and concise language of each of the following:

(1) The goods are being sold on as "as is" or "with all faults" basis.

(2) The entire risk as to the quality and performance of the goods is with the buyer.

(3) Should the goods prove defective following their purchase, the buyer and not the manufacturer, distributor, or retailer assumes the entire cost of all necessary servicing or repair.

(b) In the event of sale of consumer goods by means of a mail order catalog, the catalog offering such goods shall contain the required writing as to each item so offered in lieu of the requirement of notification prior to the sale.

(Amended Ch. 1523, Stats. 1971. Operative January 1, 1972.)

1792.5. Every sale of goods that are governed by the provisions of this chapter, on an "as is" or "with all faults" basis, made in compliance with the provisions of this chapter, shall constitute a waiver by the buyer of the implied warranty of merchantability and, where applicable, of the implied warranty of fitness.

(Amended Ch. 1523, Stats. 1971. Operative January 1, 1972.)

1793. Except as provided in Section 1793.02, nothing in this chapter shall affect the right of the manufacturer, distributor, or retailer to make express warranties and with respect to consumer goods. However, a manufacturer, distributor, or retailer, in transacting a sale in which express warranties are given, may not limit, modify, or disclaim the implied warranties guaranteed by this chapter to the sale of consumer goods.

(Amended Ch. 1023, Stats. 1979. Effective January 1, 1980.)

1793.05. Vehicle manufacturers who alter new vehicles into housecars shall, in addition to any new product warranty, assume any warranty responsibility of the original vehicle manufacturer for any and all components of the finished product which are, by virtue of any act of the alterer, no longer covered by the warranty issued by the original vehicle manufacturer.

(Added Ch. 873, Stats. 1977. Effective January 1, 1978.)

1793.1. (a) (1) Every manufacturer, distributor, or retailer making express warranties with respect to consumer goods shall fully set forth those warranties in simple and readily understood language, which shall clearly identify the party making the express warranties, and which shall conform to the federal standards for disclosure of warranty terms and conditions set forth in the federal Magnuson-Moss Warranty-Federal Trade Commission Improvement Act (15 U.S.C. Sec. 2301 et seq.), and in the regulations of the Federal Trade Commission adopted pursuant to the provisions of that act. If the manufacturer, distributor, or retailer provides a warranty or product registration card or form, or an electronic online warranty or product registration form, to be completed and returned by the consumer, the card or form shall contain statements, each displayed in a clear and conspicuous manner, that do all of the following:

(A) Informs the consumer that the card or form is for product registration.

(B) Informs the consumer that failure to complete and return the card or form does not diminish his or her warranty rights.

(2) Every work order or repair invoice for warranty repairs or service shall clearly and conspicuously incorporate in 10-point boldface type the following statement either on the face of the work order or repair invoice, or on the reverse side, or on an attachment to the work order or repair invoice: "A buyer of this product in California has the right to have this product serviced or repaired during the warranty period. The warranty period will be extended for the number of whole days that the product has been out of the buyer's hands for warranty repairs. If a defect exists within the warranty period, the warranty will not expire until the defect has been fixed. The warranty period will also be extended if the warranty repairs have not been performed due to delays caused by circumstances beyond the control of the buyer, or if the warranty repairs did not remedy the defect and the buyer notifies the manufacturer or seller of the failure of the repairs within 60 days after they were completed. If, after a reasonable number of attempts, the defect has not been fixed, the buyer may return this product for a replacement or a refund subject, in either case, to deduction of a reasonable charge for usage. This time extension does not affect the protections or remedies the buyer has under other laws."

If the required notice is placed on the reverse side of the work order or repair invoice, the face of the work order or repair invoice shall include the following notice in 10-point boldface type: "Notice to Consumer: Please read important information on back."

A copy of the work order or repair invoice and any attachment shall be presented to the buyer at the time that warranty service or repairs are made.

(b) No warranty or product registration card or form, or an electronic online warranty or product registration form, may be labeled as a warranty registration or a warranty confirmation.

(c) The requirements imposed by this section on the distribution of any warranty or product registration card or form, or an electronic online warranty or product registration form, shall become effective on January 1, 2004.

(d) This section does not apply to any warranty or product registration card or form that was printed prior to January 1, 2004, and was shipped or included with a product that was placed in the stream of commerce prior to January 1, 2004.

(e) Every manufacturer, distributor, or retailer making express warranties and who elects to maintain service and repair facilities within this state pursuant to this chapter shall perform one or more of the following:

(1) At the time of sale, provide the buyer with the name and address of each service and repair facility within this state.

(2) At the time of the sale, provide the buyer with the name and address and telephone number of a service and repair facility central directory within this state, or the toll-free telephone number of a service and repair facility central directory outside this state. It shall be the duty of the central directory to provide, upon inquiry, the name and address of the authorized service and repair facility nearest the buyer.

(3) Maintain at the premises of retail sellers of the warrantor's consumer goods a current listing of the warrantor's authorized service and repair facilities, or retail sellers to whom the consumer goods are to be returned for service and repair, whichever is applicable, within this state. It shall be the duty of every retail seller provided with that listing to provide, on inquiry, the name, address, and telephone number of the nearest authorized service and repair facility, or the retail seller to whom the consumer goods are to be returned for service and repair, whichever is applicable.

(Amended Sec. 1, Ch. 306, Stats. 2002. Effective January 1, 2003.)

1793.2. (a) Every manufacturer of consumer goods sold in this state and for which the manufacturer has made an express warranty shall:

(1) (A) Maintain in this state sufficient service and repair facilities reasonably close to all areas where its consumer goods are sold to carry out the terms of those warranties or designate and authorize in this state as service and repair facilities independent repair or service facilities reasonably close to all areas where its consumer goods are sold to carry out the terms of the warranties.

(B) As a means of complying with this paragraph, a manufacturer may enter into warranty service contracts with independent service and repair facilities. The warranty service contracts may provide for a fixed schedule of rates to be charged for warranty service or warranty repair work. However, the rates fixed by those contracts shall be in conformity with the requirements of subdivision (c) of Section 1793.3. The rates established pursuant to subdivision (c) of Section 1793.3, between the manufacturer and the independent service and repair facility, do not preclude a good faith discount that is reasonably related to reduced credit and general overhead cost factors arising from the manufacturer's payment of warranty charges direct to the independent service and repair facility. The warranty service contracts authorized by this paragraph may not be executed to cover a period of time in excess of one year, and may be renewed only by a separate, new contract or letter of agreement between the manufacturer and the independent service and repair facility.

(2) In the event of a failure to comply with paragraph (1) of this subdivision, be subject to Section 1793.5.

(3) Make available to authorized service and repair facilities sufficient service literature and replacement parts to effect repairs during the express warranty period.

(b) Where those service and repair facilities are maintained in this state and service or repair of the goods is necessary because they do not conform with the applicable express warranties, service and repair shall be commenced within a reasonable time by the manufacturer or its representative in this state. Unless the buyer agrees in writing to the contrary, the goods shall be serviced or repaired so as to conform to the applicable warranties within 30 days. Delay caused by conditions beyond the control of the manufacturer or its representatives shall serve to extend this 30-day requirement. Where delay arises, conforming goods shall be tendered as soon as possible following termination of the condition giving rise to the delay.

(c) The buyer shall deliver nonconforming goods to the manufacturer's service and repair facility within this state, unless, due to reasons of size and weight, or method of attachment, or method of installation, or nature of the nonconformity, delivery cannot reasonably be accomplished. If the buyer cannot return the nonconforming goods for any of these reasons, he or she shall notify the manufacturer or its nearest service and repair facility within the state. Written notice of nonconformity to the manufacturer or its service and repair facility shall constitute return of the goods for purposes of this section. Upon receipt of that notice of nonconformity, the manufacturer shall, at its option, service or repair the goods at the buyer's residence, or pick up the goods for service and repair, or arrange for transporting the goods to its service and repair facility. All reasonable costs of transporting the goods when a buyer cannot return them for any of the above reasons shall be at the manufacturer's expense. The reasonable costs of transporting nonconforming goods after delivery to the service and repair facility until return of the goods to the buyer shall be at the manufacturer's expense.

(d) (1) Except as provided in paragraph (2), if the manufacturer or its representative in this state does not service or repair the goods to conform to the applicable express warranties after a reasonable number of attempts, the manufacturer shall either replace the goods or reimburse the buyer in an amount equal to the purchase price paid by the buyer, less that amount directly attributable to use by the buyer prior to the discovery of the nonconformity.

(2) If the manufacturer or its representative in this state is unable to service or repair a new motor vehicle, as that term is defined in paragraph (2) of subdivision (e) of Section 1793.22, to conform to the applicable express warranties after a reasonable number of attempts, the manufacturer shall either promptly replace the new motor vehicle in accordance with subparagraph (A) or promptly make restitution to the buyer in accordance with subparagraph (B). However, the buyer shall be free to elect restitution in lieu of replacement, and in no event shall the buyer be required by the manufacturer to accept a replacement vehicle.

(A) In the case of replacement, the manufacturer shall replace the buyer's vehicle with a new motor vehicle substantially identical to the vehicle replaced. The replacement vehicle shall be accompanied by all express and implied warranties that normally accompany new motor vehicles of that specific kind. The manufacturer also shall pay for, or to, the buyer the amount of any sales or use tax, license fees, registration fees, and other official fees which the buyer is obligated to pay in connection with the replacement, plus any incidental damages to which the buyer is entitled under Section 1794, including, but not limited to, reasonable repair, towing, and rental car costs actually incurred by the buyer.

(B) In the case of restitution, the manufacturer shall make restitution in an amount equal to the actual price paid or payable by the buyer, including any charges for transportation and manufacturer-installed options, but excluding nonmanufacturer items installed by a dealer or the buyer, and including any collateral charges such as sales tax, license fees, registration fees, and other official fees, plus any incidental damages to which the buyer is entitled under Section 1794, including, but not limited to, reasonable repair, towing, and rental car costs actually incurred by the buyer.

(C) When the manufacturer replaces the new motor vehicle pursuant to subparagraph (A), the buyer shall only be liable to pay the manufacturer an amount directly attributable to use by the buyer of the replaced vehicle prior to the time the buyer first delivered the vehicle to the manufacturer or distributor, or its authorized service and repair facility for correction of the problem that gave rise to the nonconformity. When restitution is made pursuant to subparagraph (B), the amount to be paid by the manufacturer to the buyer may be reduced by the manufacturer by that amount directly attributable to use by the buyer prior to the time the buyer first delivered the vehicle to the manufacturer or distributor, or its authorized service and repair facility for correction of the problem that gave rise to the nonconformity. The amount directly attributable to use by the buyer shall be determined by multiplying the actual price of the new motor vehicle paid or payable by the buyer, including any charges for transportation and manufacturer-installed options, by a fraction having as its denominator 120,000 and having as its numerator the number of miles traveled by the new motor vehicle prior to the time the buyer first delivered the vehicle to the manufacturer or distributor, or its authorized service and repair facility for correction of the problem that gave rise to the nonconformity. Nothing in this paragraph shall in any way limit the rights or remedies available to the buyer under any other law.

(e) (1) If the goods cannot practicably be serviced or repaired by the manufacturer or its representative to conform to the applicable express warranties because of the method of installation or because the goods have become so affixed to real property as to become a part thereof, the manufacturer shall either replace and install the goods or reimburse the buyer in an amount equal to the purchase price paid by the buyer, including installation costs, less that amount directly attributable to use by the buyer prior to the discovery of the nonconformity.

(2) With respect to claims arising out of deficiencies in the construction of a new residential dwelling, paragraph (1) shall not apply to either of the following:

(A) A product that is not a manufactured product, as defined in subdivision (g) of Section 896.

(B) A claim against a person or entity that is not the manufacturer that originally made the express warranty for that manufactured product.

(Amended Sec. 1, Ch. 331, Stats. 2004. Effective January 1, 2005.)

1793.22. (a) This section shall be known and may be cited as the Tanner Consumer Protection Act.

(b) It shall be presumed that a reasonable number of attempts have been made to conform a new motor vehicle to the applicable express warranties if, within 18 months from delivery to the buyer or 18,000 miles on the odometer of the vehicle, whichever occurs first, one or more of the following occurs:

(1) The same nonconformity results in a condition that is likely to cause death or serious bodily injury if the vehicle is driven and the nonconformity has been subject to repair two or more times by the manufacturer or its agents, and the buyer or lessee has at least once directly notified the manufacturer of the need for the repair of the nonconformity.

(2) The same nonconformity has been subject to repair four or more times by the manufacturer or its agents and the buyer has at least once directly notified the manufacturer of the need for the repair of the nonconformity.

(3) The vehicle is out of service by reason of repair of nonconformities by the manufacturer or its agents for a cumulative total of more than 30 calendar days since delivery of the vehicle to the buyer. The 30-day limit shall be extended only if repairs cannot be performed due to conditions beyond the control of the manufacturer or its agents. The buyer shall be required to directly notify the manufacturer pursuant to paragraphs (1) and (2) only if the manufacturer has clearly and conspicuously disclosed to the buyer, with the warranty or the owner's manual, the provisions of this section and that of subdivision (d) of Section 1793.2, including the requirement that the buyer must notify the manufacturer directly pursuant to paragraphs (1) and (2). The notification, if required, shall be sent to the address, if any, specified clearly and conspicuously by the manufacturer in the warranty or owner's manual. This presumption shall be a rebuttable presumption affecting the burden of proof, and it may be asserted by the buyer in any civil action, including an action in small claims court, or other formal or informal proceeding.

(c) If a qualified third-party dispute resolution process exists, and the buyer receives timely notification in writing of the availability of that qualified third-party dispute resolution process with a description of its operation and effect, the presumption in subdivision (b) may not be asserted by the buyer until after the buyer has initially resorted to the qualified third-party dispute resolution process as required in subdivision (d). Notification of the availability of the qualified third-party dispute resolution process is not timely if the buyer suffers any prejudice resulting from any delay in giving the notification. If a qualified third-party dispute resolution process does not exist, or if the buyer is dissatisfied with that third-party decision, or if the manufacturer or its agent neglects to promptly fulfill the terms of the qualified third-party dispute resolution process decision after the decision is accepted by the buyer, the buyer may assert the presumption provided in subdivision (b) in an action to enforce the buyer's rights under subdivision (d) of Section 1793.2. The findings and decision of a qualified third-party dispute resolution process shall be admissible in evidence in the action without further foundation. Any period of limitation of actions under any federal or California laws with respect to any person shall be extended for a period equal to the number of days between the date a complaint is filed with a third-party dispute resolution process and the date of its decision or the date before which the manufacturer or its agent is required by the decision to fulfill its terms if the decision is accepted by the buyer, whichever occurs later.

(d) A qualified third-party dispute resolution process shall be one that does all of the following:

(1) Complies with the minimum requirements of the Federal Trade Commission for informal dispute settlement procedures as set forth in Part 703 of Title 16 of the Code of Federal Regulations, as those regulations read on January 1, 1987.

(2) Renders decisions which are binding on the manufacturer if the buyer elects to accept the decision.

(3) Prescribes a reasonable time, not to exceed 30 days after the decision is accepted by the buyer, within which the manufacturer or its agent must fulfill the terms of its decisions.

(4) Provides arbitrators who are assigned to decide disputes with copies of, and instruction in, the provisions of the Federal Trade Commission's regulations in Part 703 of Title 16 of the Code of Federal Regulations as those regulations read on January 1, 1987, Division 2 (commencing with Section 2101) of the Commercial Code, and this chapter.

(5) Requires the manufacturer, when the process orders, under the terms of this chapter, either that the nonconforming motor vehicle be replaced if the buyer consents to this remedy or that restitution be made to the buyer, to replace the motor vehicle or make restitution in accordance with paragraph (2) of subdivision (d) of Section 1793.2.

(6) Provides, at the request of the arbitrator or a majority of the arbitration panel, for an inspection and written report on the condition of a nonconforming motor vehicle, at no cost to the buyer, by an automobile expert who is independent of the manufacturer.

(7) Takes into account, in rendering decisions, all legal and equitable factors, including, but not limited to, the written warranty, the rights and remedies conferred in regulations of the Federal Trade Commission contained in Part 703 of Title 16 of the Code of Federal Regulations as those regulations read on January 1, 1987, Division 2 (commencing with Section 2101) of the Commercial Code, this chapter, and any other equitable considerations appropriate in the circumstances. Nothing in this chapter requires that, to be certified as a qualified third-party dispute resolution process pursuant to this section, decisions of the process must consider or provide remedies in the form of awards of punitive damages or multiple damages, under subdivision (c) of Section 1794, or of attorneys' fees under subdivision (d) of Section 1794, or of consequential damages other than as provided in subdivisions (a) and (b) of Section 1794, including, but not limited to, reasonable repair, towing, and rental car costs actually incurred by the buyer.

(8) Requires that no arbitrator deciding a dispute may be a party to the dispute and that no other person, including an employee, agent, or dealer for the manufacturer, may be allowed to participate substantively in the merits of any dispute with the arbitrator unless the buyer is allowed to participate also. Nothing in this subdivision prohibits any member of an arbitration board from deciding a dispute.

(9) Obtains and maintains certification by the Department of Consumer Affairs pursuant to Chapter 9 (commencing with Section 472) of Division 1 of the Business and Professions Code.

(e) For the purposes of subdivision (d) of Section 1793.2 and this section, the following terms have the following meanings:

(1) "Nonconformity" means a nonconformity which substantially impairs the use, value, or safety of the new motor vehicle to the buyer or lessee.

(2) "New motor vehicle" means a new motor vehicle that is bought or used primarily for personal, family, or household purposes. "New motor vehicle" also means a new motor vehicle with a gross vehicle weight under 10,000 pounds that is bought or used primarily for business purposes by a person, including a partnership, limited liability company, corporation, association, or any other legal entity, to which not more than five motor vehicles are registered in this state. "New motor vehicle" includes the chassis, chassis cab, and that portion of a motor home devoted to its propulsion, but does not include any portion designed, used, or maintained primarily for human habitation, a dealer-owned vehicle and a "demonstrator" or other motor vehicle sold with a manufacturer's new car warranty but does not include a motorcycle or a motor vehicle which is not registered under the Vehicle Code because it is to be operated or used exclusively off the highways. A demonstrator is a vehicle assigned by a dealer for the purpose of demonstrating qualities and characteristics common to vehicles of the same or similar model and type.

(3) "Motor home" means a vehicular unit built on, or permanently attached to, a self-propelled motor vehicle chassis, chassis cab, or van, which becomes an integral part of the completed vehicle, designed for human habitation for recreational or emergency occupancy.

(f) (1) Except as provided in paragraph (2), no person shall sell, either at wholesale or retail, lease, or transfer a motor vehicle transferred by a buyer or lessee to a manufacturer pursuant to paragraph (2) of subdivision (d) of Section 1793.2 or a similar statute of any other state, unless the nature of the nonconformity experienced by the original buyer or lessee is clearly and conspicuously disclosed to the prospective buyer, lessee, or transferee, the nonconformity is corrected, and the manufacturer warrants to the new buyer, lessee, or transferee in writing for a period of one year that the motor vehicle is free of that nonconformity.

(2) Except for the requirement that the nature of the nonconformity be disclosed to the transferee, paragraph (1) does not apply to the transfer of a motor vehicle to an educational institution if the purpose of the transfer is to make the motor vehicle available for use in automotive repair courses.

(Amended Sec. 1, Ch. 679, Stats. 2000. Effective January 1, 2001.)

1793.23. (a) The Legislature finds and declares all of the following:

(1) That the expansion of state warranty laws covering new and used cars has given important and valuable protection to consumers.

(2) That, in states without this valuable warranty protection, used and irrepairable motor vehicles are being resold in the marketplace without notice to the subsequent purchaser.

(3) That other states have addressed this problem by requiring notices on the title of these vehicles or other notice procedures to warn consumers that the motor vehicles were repurchased by a dealer or manufacturer because the vehicle could not be repaired in a reasonable length of time or a reasonable number of repair attempts or the dealer or manufacturer was not willing to repair the vehicle.

(4) That these notices serve the interests of consumers who have a right to information relevant to their buying decisions.

(5) That the disappearance of these notices upon the transfer of title from another state to this state encourages the transport of "lemons" to this state for sale to the drivers of this state.

(b) This section and Section 1793.24 shall be known, and may be cited as, the Automotive Consumer Notification Act.

(c) Any manufacturer who reacquires or assists a dealer or lienholder to reacquire a motor vehicle registered in this state, any other state, or a federally administered district shall, prior to any sale, lease, or transfer of the vehicle in this state, or prior to exporting the vehicle to another state for sale, lease, or transfer if the vehicle was registered in this state and reacquired pursuant to paragraph (2) of subdivision (d) of Section 1793.2, cause the vehicle to be retitled in the name of the manufacturer, request the Department of Motor Vehicles to inscribe the ownership certificate with the notation "Lemon Law Buyback," and affix a decal to the vehicle in accordance with Section 11713.12 of the Vehicle Code if the manufacturer knew or should have known that the vehicle is required by law to be replaced, accepted for restitution due to the failure of the manufacturer to conform the vehicle to applicable warranties pursuant to paragraph (2) of subdivision (d) of Section 1793.2, or accepted for restitution by the manufacturer due to the failure of the manufacturer to conform the vehicle to warranties required by any other applicable law of the state, any other state, or federal law.

(d) Any manufacturer who reacquires or assists a dealer or lienholder to reacquire a motor vehicle in response to a request by the buyer or lessee that the vehicle be either replaced or accepted for restitution because the vehicle did not conform to express warranties shall, prior to the sale, lease, or other transfer of the vehicle, execute and deliver to the subsequent transferee a notice and obtain the transferee's written acknowledgment of a notice, as prescribed by Section 1793.24.

(e) Any person, including any dealer, who acquires a motor vehicle for resale and knows or should have known that the vehicle was reacquired by the vehicle's manufacturer in response to a request by the last retail owner or lessee of the vehicle that it be replaced or accepted for restitution because the vehicle did not conform to express warranties shall, prior to the sale, lease, or other transfer, execute and deliver to the subsequent transferee a notice and obtain the transferee's written acknowledgment of a notice, as prescribed by Section 1793.24.

(f) Any person, including any manufacturer or dealer, who sells, leases, or transfers ownership of a motor vehicle when the vehicle's ownership certificate is inscribed with the notation "Lemon Law Buyback" shall, prior to the sale, lease, or ownership transfer of the vehicle, provide the transferee with a disclosure statement signed by the transferee that states:

"THIS VEHICLE WAS REPURCHASED BY ITS MANUFACTURER DUE TO A DEFECT IN THE VEHICLE PURSUANT TO CONSUMER WARRANTY LAWS. THE TITLE TO THIS VEHICLE HAS BEEN PERMANENTLY BRANDED WITH THE NOTATION 'LEMON LAW BUYBACK'."

(g) The disclosure requirements in subdivisions (d), (e), and (f) are cumulative with all other consumer notice requirements and do not relieve any person, including any dealer or manufacturer, from complying with any other applicable law, including any requirement of subdivision (f) of Section 1793.22.

(h) For purposes of this section, "dealer" means any person engaged in the business of selling, offering for sale, or negotiating the retail sale of, a used motor vehicle or selling motor vehicles as a broker or agent for another, including the officers, agents, and employees of the person and any combination or association of dealers.

(Amended Sec. 7, Ch. 932, Stats. 1998. Effective January 1, 1999.)

1793.24. (a) The notice required in subdivisions (d) and (e) of Section 1793.23 shall be prepared by the manufacturer of the reacquired vehicle and shall disclose all of the following:

(1) Year, make, model, and vehicle identification number of the vehicle.

(2) Whether the title to the vehicle has been inscribed with the notation "Lemon Law Buyback."

(3) The nature of each nonconformity reported by the original buyer or lessee of the vehicle.

(4) Repairs, if any, made to the vehicle in an attempt to correct each nonconformity reported by the original buyer or lessee.

(b) The notice shall be on a form 81/2 x 11 inches in size and printed in no smaller than 10-point black type on a white background.

The form shall only contain the following information prior to it being filled out by the manufacturer:

WARRANTY BUYBACK NOTICE

(Check One)

❑ This vehicle was repurchased by the vehicle's manufacturer after the last retail owner or lessee requested its repurchase due to the problem(s) listed below.

❑ THIS VEHICLE WAS REPURCHASED BY ITS MANUFACTURER DUE TO A DEFECT IN THE VEHICLE PURSUANT TO CONSUMER WARRANTY LAWS. THE TITLE TO THIS VEHICLE HAS BEEN PERMANENTLY BRANDED WITH THE NOTATION "LEMON LAW BUYBACK." Under California law, the manufacturer must warrant to you, for a one year period, that the vehicle is free of the problem(s) listed below.

V.I.N.	Year	Make	Model

Problem(s) Reported by Original Owner	Repairs Made, if any, to Correct Reported Problem(s)

Signature of Manufacturer Date

Signature of Dealer(s) Date

Signature of Retail Buyer or Lessee Date

(c) The manufacturer shall provide an executed copy of the notice to the manufacturer's transferee. Each transferee, including a dealer, to whom the motor vehicle is transferred prior to its sale to a retail buyer or lessee shall be provided an executed copy of the notice by the previous transferor.

(Added Sec. 2, Ch. 503, Stats. 1995. Effective January 1, 1996.)

1793.26. (a) Any automobile manufacturer, importer, distributor, dealer, or lienholder who reacquires, or who assists in reacquiring, a motor vehicle, whether by judgment, decree, arbitration award, settlement agreement, or voluntary agreement, is prohibited from doing either of the following:

(1) Requiring, as a condition of the reacquisition of the motor vehicle, that a buyer or lessee who is a resident of this state agree not to disclose the problems with the vehicle experienced by the buyer or lessee or the nonfinancial terms of the reacquisition.

(2) Including, in any release or other agreement, whether prepared by the manufacturer, importer, distributor, dealer, or lienholder, for signature by the buyer or lessee, a confidentiality clause, gag clause, or similar clause prohibiting the buyer or lessee from disclosing information to anyone about the problems with the vehicle, or the nonfinancial terms of the reacquisition of the vehicle by the manufacturer, importer, distributor, dealer, or lienholder.

(b) Any confidentiality clause, gag clause, or similar clause in such a release or other agreement in violation of this section shall be null and void as against the public policy of this state.

(c) Nothing in this section is intended to prevent any confidentiality clause, gag clause, or similar clause regarding the financial terms of the reacquisition of the vehicle.

(Amended Sec. 1, Ch. 679, Stats. 2000. Effective January 1, 2001.)

1793.3. If the manufacturer of consumer goods sold in this state for which the manufacturer has made an express warranty does not provide service and repair facilities within this state pursuant to subdivision (a) of Section 1793.2 or does not make available to authorized service and repair facilities service literature and replacement parts sufficient to effect repair during the express warranty period, the buyer of such manufacturer's nonconforming goods may follow the course of action prescribed in either subdivision (a), (b), or (c), below, as follows:

(a) Return the nonconforming consumer goods to the retail seller thereof. The retail seller shall do one of the following:

(1) Service or repair the nonconforming goods to conform to the applicable warranty.

(2) Direct the buyer to a reasonably close independent repair or service facility willing to accept service or repair under this section.

(3) Replace the nonconforming goods with goods that are identical or reasonably equivalent to the warranted goods.

(4) Refund to the buyer the original purchase price less that amount directly attributable to use by the buyer prior to the discovery of the nonconformity.

(b) Return the nonconforming consumer goods to any retail seller of like goods of the same manufacturer within this state who may do one of the following:

(1) Service or repair the nonconforming goods to conform to the applicable warranty.

(2) Direct the buyer to a reasonably close independent repair or service facility willing to accept service or repair under this section.

(3) Replace the nonconforming goods with goods that are identical or reasonably equivalent to the warranted goods.

(4) Refund to the buyer the original purchase price less that amount directly attributable to use by the buyer prior to the discovery of the nonconformity.

(c) Secure the services of an independent repair or service facility for the service or repair of the nonconforming consumer goods, when service or repair of the goods can be economically accomplished. In that event the manufacturer shall be liable to the buyer, or to the independent repair or service facility upon an assignment of the buyer's rights, for the actual and reasonable cost of service and repair, including any cost for parts and any reasonable cost of transporting the goods or parts, plus a reasonable profit. It shall be a rebuttable presumption affecting the burden of producing evidence that the reasonable cost of service or repair is an amount equal to that which is charged by the independent service dealer for like services or repairs rendered to service or repair customers who are not entitled to warranty protection. Any waiver of the liability of a manufacturer shall be void and unenforceable.

The course of action prescribed in this subdivision shall be available to the buyer only after the buyer has followed the course of action prescribed in either subdivision (a) or (b) and such course of action has not furnished the buyer with appropriate relief. In no event, shall the provisions of this subdivision be available to the buyer with regard to consumer goods with a wholesale price to the retailer of less than fifty dollars ($50). In no event shall the buyer be responsible or liable for service or repair costs charged by the independent repair or service facility which accepts service or repair of nonconforming consumer goods under this section. Such independent repair or service facility shall only be authorized to hold the manufacturer liable for such costs.

(d) A retail seller to which any nonconforming consumer good is returned pursuant to subdivision (a) or (b) shall have the option of providing service or repair itself or directing the buyer to a reasonably close independent repair or service facility willing to accept service or repair under this section. In the event the retail seller directs the buyer to an independent repair or service facility, the manufacturer shall be liable for the reasonable cost of repair services in the manner provided in subdivision (c).

(e) In the event a buyer is unable to return nonconforming goods to the retailer due to reasons of size and weight, or method of attachment, or method of installation, or nature of the nonconformity, the buyer shall give notice of the nonconformity to the retailer. Upon receipt of such notice of nonconformity the retailer shall, at its option, service or repair the goods at the buyer's residence, or pick up the goods for service or repair, or arrange for transporting the goods to its place of business. The reasonable costs of transporting the goods shall be at the retailer's expense. The retailer shall be entitled to recover all such reasonable costs of transportation from the manufacturer pursuant to Section 1793.5. The reasonable costs of transporting nonconforming goods after delivery to the retailer until return of the goods to the buyer, when incurred by a retailer, shall be recoverable form the manufacturer pursuant to Section 1793.5. Written notice of nonconformity to the retailer shall constitute return of the goods for the purposes of subdivisions (a) and (b).

(f) The manufacturer of consumer goods with a wholesale price to the retailer of fifty dollars ($50) or more for which the manufacturer has made express warranties shall provide written notice to the buyer of the courses of action available to him under subdivision (a), (b), or (c).

(Amended Ch. 547, Stats. 1986. Effective January 1, 1987.)

1793.4. Where an option is exercised in favor of service and repair under Section 1793.3, such service and repair must be commenced within a reasonable time, and, unless the buyer agrees in writing to the contrary, goods conforming to the applicable express warranties shall be tendered within 30 days. Delay caused by conditions beyond the control of the retail seller or his representative shall serve to extend this 30-day requirement. Where such a delay arises, conforming goods shall be tendered as soon as possible following termination of the condition giving rise to the delay.

(Amended Ch. 991, Stats. 1978. Effective January 1, 1979.)

1793.5. Every manufacturer making express warranties who does not provide service and repair facilities within this state pursuant to subdivision (a) of Section 1793.2 shall be liable as prescribed in this section to every retail seller of such manufacturer's goods who incurs obligations in giving effect to the express warranties that accompany such manufacturer's consumer goods. The amount of such liability shall be determined as follows:

(a) In the event of replacement, in an amount equal to the actual cost to the retail seller of the replaced goods, and cost of transporting the goods, if such costs are incurred plus a reasonable handling charge.

(b) In the event of service and repair, in an amount equal to that which would be received by the retail seller for like service rendered to retail consumers who are not entitled to warranty protection, including actual and reasonable costs of the service and repair and the cost of transporting the goods, if such costs are incurred, plus a reasonable profit.

(c) In the event of reimbursement under subdivision (a) of Section 1793.3, in an amount equal to that reimbursed to the buyer, plus a reasonable handling charge.

(Amended Ch. 1523, Stats. 1971. Operative January 1, 1972.)

1793.6. Except as otherwise provided in the terms of a warranty service contract, as specified in subdivision (a) of Section 1793.2, entered into between a manufacturer and an independent service and repair facility, every manufacturer making express warranties whose consumer goods are sold in this state shall be liable as prescribed in this section to every independent serviceman who performs services or incurs obligations in giving effect to the express warranties that accompany such manufacturer's consumer goods whether the independent serviceman is acting as an authorized service and repair facility designated by the manufacturer pursuant to paragraph (1) of subdivision (a) of Section 1793.2 or is acting as an independent serviceman pursuant to subdivisions (c) and (d) of Section 1793.3. The amount of such liability shall be an amount equal to the actual and reasonable costs of the service and repair, including any cost for parts and any reasonable cost of transporting the goods or parts, plus a reasonable profit. It shall be a rebuttable presumption affecting the burden of producing evidence that the reasonable cost of service or repair is an amount equal to that which is charged by the independent serviceman for like services or repairs rendered to service or repair customers who are not entitled to warranty protection. Any waiver of the liability of a manufacturer shall be void and unenforceable.

(Added Ch. 416, Stats. 1976.)

1794. (a) Any buyer of consumer goods who is damaged by a failure to comply with any obligation under this chapter or under an implied or express warranty or service contract may bring an action for the recovery of damages and other legal and equitable relief.

(b) The measure of the buyer's damages in an action under this section shall include the rights of replacement or reimbursement as set forth in subdivision (d) of Section 1793.2, and the following:

(1) Where the buyer has rightfully rejected or justifiably revoked acceptance of the goods or has exercised any right to cancel the sale, Sections 2711, 2712, and 2713 of the Commercial Code shall apply.

(2) Where the buyer has accepted the goods, Sections 2714 and 2715 of the Commercial Code shall apply, and the measure of damages shall include the cost of repairs necessary to make the goods conform.

(c) If the buyer establishes that the failure to comply was willful, the judgment may include, in addition to the amounts recovered under subdivision (a), a civil penalty which shall not exceed two times the amount of actual damages. This subdivision shall not apply in any class action under Section 382 of the Code of Civil Procedure or under Section 1781, or with respect to a claim based solely on a breach of an implied warranty.

(d) If the buyer prevails in an action under this section, the buyer shall be allowed by the court to recover as part of the judgment a sum equal to the aggregate amount of costs and expenses, including attorney's fees based on actual time expended, determined by the court to have been reasonably incurred by the buyer in connection with the commencement and prosecution of such action.

(e) (1) Except as otherwise provided in this subdivision, if the buyer establishes a violation of paragraph (2) of subdivision (d) of Section 1793.2, the buyer shall recover damages and reasonable attorney's fees and costs, and may recover a civil penalty of up to two times the amount of damages.

(2) If the manufacturer maintains a qualified third-party dispute resolution process which substantially complies with Section 1793.22, the manufacturer shall not be liable for any civil penalty pursuant to this subdivision.

(3) After the occurrence of the events giving rise to the presumption established in subdivision (b) of Section 1793.22, the buyer may serve upon the manufacturer a written notice requesting that the manufacturer comply with paragraph (2) of subdivision (d) of Section 1793.2. If the buyer fails to serve the notice, the manufacturer shall not be liable for a civil penalty pursuant to this subdivision.

(4) If the buyer serves the notice described in paragraph (3) and the manufacturer complies with paragraph (2) of subdivision (d) of Section 1793.2 within 30 days of the service of that notice, the manufacturer shall not be liable for a civil penalty pursuant to this subdivision.

(5) If the buyer recovers a civil penalty under subdivision (c), the buyer may not also recover a civil penalty under this subdivision for the same violation.

(Amended Ch. 1232, Stats. 1992. Effective January 1, 1993.)

1794.1. (a) Any retail seller of consumer goods injured by the willful or repeated violation of the provisions of this chapter may bring an action for the recovery of damages. Judgment may be entered for three times the amount at which the actual damages are assessed plus reasonable attorney fees.

(b) Any independent serviceman of consumer goods injured by the willful or repeated violation of the provisions of this chapter may bring an action for the recovery of damages. Judgment may be entered for three times the amount at which the actual damages are assessed plus reasonable attorney fees.

(Amended Ch. 416, Stats. 1976.)

1794.3. The provisions of this chapter shall not apply to any defect or nonconformity in consumer goods caused by the unauthorized or unreasonable use of the goods following sale.

(Amended Ch. 1523, Stats. 1971. Operative January 1, 1972.)

1794.4. (a) Nothing in this chapter shall be construed to prevent the sale of a service contract to the buyer in addition to, or in lieu of, an express warranty if that contract fully and conspicuously discloses in simple and readily understood language the terms, conditions, and exclusions of that contract, provided that nothing in this section shall apply to a home protection contract issued by a home protection company that is subject to Part 7 (commencing with Section 12740) of Division 2 of the Insurance Code.

(b) Except as otherwise expressly provided in the service contract, every service contract shall obligate the service contract seller to provide to the buyer of the product all of the services and functional parts that may be necessary to maintain proper operation of the entire product under normal operation and service for the duration of the service contract and without additional charge.

(c) The service contract shall contain all of the following items of information:

(1) A clear description and identification of the covered product.

(2) The point in time or event when the term of the service contract commences, and its duration measured by elapsed time or an objective measure of use.

(3) If the enforceability of the service contract is limited to the original buyer or is limited to persons other than every consumer owner of the covered product during the term of the service contract, a description of the limits on transfer or assignment of the service contract.

(4) A statement of the general obligation of the service contract seller in the same language set forth in subdivision (b), with equally clear and conspicuous statements of the following:

(A) Any services, parts, characteristics, components, properties, defects, malfunctions, causes, conditions, repairs, or remedies that are excluded from the scope of the service contract.

(B) Any other limits on the application of the language in subdivision (b) such as a limit on the total number of service calls.

(C) Any additional services that the service contract seller will provide.

(D) Whether the obligation of the service contract seller includes preventive maintenance and, if so, the nature and frequency of the preventive maintenance that the service contractor will provide.

(E) Whether the buyer has an obligation to provide preventive maintenance or perform any other obligations and, if so, the nature and frequency of the preventive maintenance and of any other obligations, and the consequences of any noncompliance.

(5) A step-by-step explanation of the procedure that the buyer should follow in order to obtain performance of any obligation under the service contract, including the following:

(A) The full legal and business name of the service contract seller.

(B) The mailing address of the service contract seller.

(C) The persons or class of persons that are authorized to perform service.

(D) The name or title and address of any administrator, agent, employee, or department of the service contract seller that is responsible for the performance of any obligations.

(E) The method of giving notice to the service contract seller of the need for service;

(F) Whether in-home service is provided or, if not, whether the costs of transporting the product, for service or repairs will be paid by the service contract seller.

(G) If the product must be transported to the service contract seller, either the place where the product may be delivered for service or repairs or a toll-free telephone number that the buyer may call to obtain that information;

(H) All other steps that the buyer must take to obtain service.

(I) All fees, charges, and other costs that the buyer must pay to obtain service.

(6) An explanation of the steps that the service contract seller will take to carry out its obligations under the service contract.

(7) A description of any right to cancel the contract if the buyer returns the product or the product is sold, lost, stolen, or destroyed, or, if there is no right to cancel or the right to cancel is limited, a statement of the fact.

(8) Information respecting the availability of any informal dispute settlement process.

(9) A statement identifying the person who is financially and legally obligated to perform the services specified in the service contract, including the name and address of that person.

Nothing in this subdivision shall preclude a service contract seller from designating an administrator that a service contractholder may initially contact for performance of the obligations under the service contract.

(d) Subdivisions (b) and (c) are applicable to service contracts on new or used home appliances and home electronic products entered into on or after July 1, 1989. They are applicable to service contracts on all other new or used products entered into on and after July 1, 1991.

(e) This section shall remain in effect only until January 1, 2008, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2008, deletes or extends that date.

(Amended Sec. 65, Ch. 405, Stats. 2002. Effective January 1, 2003.)

NOTE: The preceding section is repealed on January 1, 2008, and the following section becomes effective.

1794.4. (a) Nothing in this chapter shall be construed to prevent the sale of a service contract to the buyer in addition to or in lieu of an express warranty if that contract fully and conspicuously discloses in simple and readily understood language the terms, conditions, and exclusions of that contract, provided that nothing in this section shall apply to a home protection contract issued by a home protection company that is subject to Part 7 (commencing with Section 12740) of Division 2 of the Insurance Code.

(b) Except as otherwise expressly provided in the service contract, every service contract shall obligate the service contractor to provide to the buyer of the product all of the services and functional parts that may be necessary to maintain proper operation of the entire product under normal operation and service for the duration of the service contract and without additional charge.

(c) The service contract shall contain all of the following items of information:

(1) A clear description and identification of the covered product.

(2) The point in time or event when the term of the service contract commences, and its duration measured by elapsed time or an objective measure of use.

(3) If the enforceability of the service contract is limited to the original buyer or is limited to persons other than every consumer owner of the covered product during the term of the service contract, a description of the limits on transfer or assignment of the service contract.

(4) A statement of the general obligation of the service contractor in the same language set forth in subdivision (b), with equally clear and conspicuous statements of the following:

(A) Any services, parts, characteristics, components, properties, defects, malfunctions, causes, conditions, repairs, or remedies that are excluded from the scope of the service contract.

(B) Any other limits on the application of the language in subdivision (b) such as a limit on the total number of service calls.

(C) Any additional services that the service contractor will provide.

(D) Whether the obligation of the service contractor includes preventive maintenance and, if so, the nature and frequency of the preventive maintenance that the service contractor will provide.

(E) Whether the buyer has an obligation to provide preventive maintenance or perform any other obligations and, if so, the nature and frequency of the preventive maintenance and of any other obligations, and the consequences of any noncompliance.

(5) A step-by-step explanation of the procedure that the buyer should follow in order to obtain performance of any obligation under the service contract including the following:

(A) The full legal and business name of the service contractor.

(B) The mailing address of the service contractor.

(C) The persons or class of persons that are authorized to perform service.

(D) The name or title and address of any agent, employee, or department of the service contractor that is responsible for the performance of any obligations.

(E) The method of giving notice to the service contractor of the need for service.

(F) Whether in-home service is provided or, if not, whether the costs of transporting the product, for service or repairs will be paid by the service contractor.

(G) If the product must be transported to the service contractor, either the place where the product may be delivered for service or repairs or a toll-free telephone number that the buyer may call to obtain that information.

(H) All other steps that the buyer must take to obtain service.

(I) All fees, charges, and other costs that the buyer must pay to obtain service.

(6) An explanation of the steps that the service contractor will take to carry out its obligations under the service contract.

(7) A description of any right to cancel the contract if the buyer returns the product or the product is sold, lost, stolen, or destroyed, or, if there is no right to cancel or the right to cancel is limited, a statement of the fact.

(8) Information respecting the availability of any informal dispute settlement process.

(d) Subdivisions (b) and (c) are applicable to service contracts on new or used home appliances and home electronic products entered into on or after July 1, 1989. They are applicable to service contracts on all other new or used products entered into on and after July 1, 1991.

(e) This section shall become operative on January 1, 2008.

(Amended Sec. 64, Ch. 405, Stats. 2002. Effective January 1, 2003.)

1794.41. (a) No service contract covering any motor vehicle, home appliance or home electronic product purchased for use in this state may be offered for sale or sold unless all of the following elements exist:

(1) The contract shall contain the disclosures specified in Section 1794.4 and shall disclose in the manner described in that section the buyer's cancellation and refund rights provided by this section.

(2) The contract shall be available for inspection by the buyer prior to purchase and either the contract, or a brochure which specifically describes the terms, conditions, and exclusions of the contract, and the provisions of this section relating to contract delivery, cancellation, and refund, shall be delivered to the buyer at or before the time of purchase of the contract. Within 60 days after the date of purchase, the contract itself shall be delivered to the buyer. If a service contract for a home appliance or a home electronic product is sold by means of a telephone solicitation, the seller may elect to satisfy the requirements of this paragraph by mailing or delivering the contract to the buyer not later than 30 days after the date of the sale of the contract.

(3) The contract is applicable only to items, costs, and time periods not covered by the express warranty. However, a service contract may run concurrently with or overlap an express warranty if (A) the contract covers items or costs not covered by the express warranty or (B) the contract provides relief to the purchaser not available under the express warranty, such as automatic replacement of a product where the express warranty only provides for repair.

(4) The contract shall be cancelable by the purchaser under the following conditions:

(A) Unless the contract provides for a longer period, within the first 60 days after receipt of the contract, or with respect to a contract covering a used motor vehicle without manufacturer warranties, a home appliance, or a home electronic product, within the first 30 days after receipt of the contract, the full amount paid shall be refunded by the seller to the purchaser if the purchaser provides a written notice of cancellation to the person specified in the contract, and if no claims have been made against the contract. If a claim has been made against the contract either within the first 60 days after receipt of the contract, or with respect to a used motor vehicle without manufacturer warranties, home appliance, or home electronic product, within the first 30 days after receipt of the contract, a pro rata refund, based on either elapsed time or an objective measure of use, such as mileage or the retail value of any service performed, at the seller's option as indicated in the contract, shall be made by the seller to the purchaser if the purchaser provides a written notice of cancellation to the person specified in the contract.

(B) Unless the contract provides for a longer period for obtaining a full refund, after the first 60 days after receipt of the contract, or with respect to a contract covering a used motor vehicle without manufacturer warranties, a home appliance, or a home electronic product, after the first 30 days after the receipt of the contract, a pro rata refund, based on either elapsed time or an objective measure of use, such as mileage or the retail value of any service performed, at the seller's option as indicated in the contract, shall be made by the seller to the purchaser if the purchaser provides a written notice of cancellation to the person specified in the contract. In addition, the seller may assess a cancellation or administrative fee, not to exceed 10 percent of the price of the service contract or twenty-five dollars ($25), whichever is less.

(C) If the purchase of the service contract was financed, the seller may make the refund payable to the purchaser, the assignee, or lender of record, or both.

(b) Nothing in this section shall apply to a home protection plan that is issued by a home protection company which is subject to Part 7 (commencing with Section 12740) of Division 2 of the Insurance Code.

(c) The amendments to this section made at the 1988 portion of the 1987—88 Regular Session of the Legislature that extend the application of this section to service contracts on home appliances and home electronic products shall become operative on July 1, 1989.

(d) If any provision of this section conflicts with any provision of Part 8 (commencing with Section 12800) of Division 2 of the Insurance Code, the provision of the Insurance Code shall apply instead of this section.

(Amended Sec. 1, Ch. 439, Stats. 2003. Effective January 1, 2004.)

1794.5. The provisions of this chapter shall not preclude a manufacturer making express warranties from suggesting methods of effecting service and repair, in accordance with the terms and conditions of the express warranties, other than those required by this chapter.

(Added Ch. 1333, Stats. 1970.)

1795. If express warranties are made by persons other than the manufacturer of the goods, the obligation of the person making such warranties shall be the same as that imposed on the manufacturer under this chapter.

(Added Ch. 1333, Stats. 1970.)

1795.1. This chapter shall apply to any equipment or mechanical, electrical, or thermal component of a system designed to heat, cool, or otherwise condition air, but, with that exception, shall not apply to the system as a whole where such a system becomes a fixed part of a structure.

(Amended Ch. 728, Stats. 1983. Effective January 1, 1984.)

1795.4. For the purposes of this chapter only, the following rules apply to leases of both new and used consumer goods:

(a) If express warranties are regularly furnished to purchasers of substantially the same kind of goods, (1) those warranties will be deemed to apply to the leased goods and (2) the lessor and lessee shall each be deemed to be the first purchaser of the goods for the purpose of any warranty provision limiting warranty benefits to the original purchaser.

(b) The lessee of goods has the same rights under this chapter against the manufacturer and any person making express warranties that the lessee would have had under this chapter if the goods had been purchased by the lessee, and the manufacturer and any person making express warranties have the same duties and obligations under this chapter with respect to the goods that such manufacturer and other person would have had under this chapter if the goods had been sold to the lessee.

(c) If a lessor leases goods to a lessee from the lessor's inventory, the lessee has the same rights under this chapter against the lessor that the lessee would have had if the goods had been purchased by the lessee, and the lessor has the same duties and obligations under this chapter with respect to the goods that the lessor would have had under this chapter if the goods had been sold to the lessee. For purposes of this section, "inventory" shall include both goods in the lessor's possession prior to negotiation of the lease and goods ordered from another party in order to lease those goods to the lessee where the lessor is a dealer in goods of that type.

(d) If a lessor leases goods to a lessee which the lessor acquires other than from the lessor's inventory, the lessee has the same rights under this chapter against the seller of the goods to the lessor that the lessee would have had under this chapter if the goods had been purchased by the lessee from the seller, and the seller of the goods to the lessor has the same duties and obligations under this chapter with respect to the goods that the seller would have had under this chapter if the goods had been purchased by the lessee from the seller.

(e) A lessor who re-leases goods to a new lessee and does not retake possession of the goods prior to consummation of the re-lease may, notwithstanding the provisions of Section 1793, disclaim as to that lessee any and all warranties created by this chapter by conspicuously disclosing in the lease that these warranties are disclaimed.

(f) A lessor who has obligations to the lessee with relation to warranties in connection with a lease of goods and the seller of goods to a lessor have the same rights and remedies against the manufacturer and any person making express warranties that a seller of the goods would have had if the seller had sold the goods to the lessee.

(Added Ch. 1169, Stats. 1984. Effective January 1, 1985.)

1795.5. Notwithstanding the provisions of subdivision (a) of Section 1791 defining consumer goods to mean "new" goods, the obligation of a distributor or retail seller of used consumer goods in a sale in which an express warranty is given shall be the same as that imposed on manufacturers under this chapter except:

(a) It shall be the obligation of the distributor or retail seller making express warranties with respect to used consumer goods (and not the original manufacturer, distributor, or retail seller making express warranties with respect to such goods when new) to maintain sufficient service and repair facilities within this state to carry out the terms of such express warranties.

(b) The provisions of Section 1793.5 shall not apply to the sale of used consumer goods sold in this state.

(c) The duration of the implied warranty of merchantability and where present the implied warranty of fitness with respect to used consumer goods sold in this state, where the sale is accompanied by an express warranty, shall be coextensive in duration with an express warranty which accompanies the consumer goods, provided the duration of the express warranty is reasonable, but in no event shall such implied warranties have a duration of less than 30 days nor more than three months following the sale of used consumer goods to a retail buyer. Where no duration for an express warranty is stated with respect to such goods, or parts thereof, the duration of the implied warranties shall be the maximum period prescribed above.

(d) The obligation of the distributor or retail seller who makes express warranties with respect to used goods that are sold in this state, shall extend to the sale of all such used goods, regardless of when such goods may have been manufactured.

(Amended Ch. 728, Stats. 1983. Effective January 1, 1984.)

1795.6. (a) Every warranty period relating to an implied or express warranty accompanying a sale or consignment for sale of consumer goods selling for fifty dollars ($50) or more shall automatically be tolled for the period from the date upon which the buyer either (1) delivers nonconforming goods to the manufacturer or seller for warranty repairs or service or (2), pursuant to subdivision (c) of Section 1793.2 or Section 1793.22, notifies the manufacturer or seller of the nonconformity of the goods up to, and including, the date upon which (1) the repaired or serviced goods are delivered to the buyer, (2) the buyer is notified the goods are repaired or serviced and are available for the buyer's possession or (3) the buyer is notified that repairs or service is completed, if repairs or service is made at the buyer's residence.

(b) Notwithstanding the date or conditions set for the expiration of the warranty period, such warranty period shall not be deemed expired if either or both of the following situations occur: (1) after the buyer has satisfied the requirements of subdivision (a), the warranty repairs or service has not been performed due to delays caused by circumstances beyond the control of the buyer or (2) the warranty repairs or service performed upon the nonconforming goods did not remedy the nonconformity for which such repairs or service was performed and the buyer notified the manufacturer or seller of this failure within 60 days after the repairs or service was completed. When the warranty repairs or service has been performed so as to remedy the nonconformity, the warranty period shall expire in accordance with its terms, including any extension to the warranty period for warranty repairs or service.

(c) For purposes of this section only, "manufacturer" includes the manufacturer's service or repair facility.

(d) Every manufacturer or seller of consumer goods selling for fifty dollars ($50) or more shall provide a receipt to the buyer showing the date of purchase. Every manufacturer or seller performing warranty repairs or service on the goods shall provide to the buyer a work order or receipt with the date of return and either the date the buyer was notified that the goods were repaired or serviced or, where applicable, the date the goods were shipped or delivered to the buyer.

(Amended Ch. 1232, Stats. 1992. Effective January 1, 1993.)

1795.7. Whenever a warranty, express or implied, is tolled pursuant to Section 1795.6 as a result of repairs or service performed by any retail seller, the warranty shall be extended with regard to the liability of the manufacturer to a retail seller pursuant to law. In such event, the manufacturer shall be liable in accordance with the provisions of Section 1793.5 for the period that an express warranty has been extended by virtue of Section 1795.6 to every retail seller who incurs obligations in giving effect to such express warranty. The manufacturer shall also be liable to every retail seller for the period that an implied warranty has been extended by virtue of Section 1795.6, in the same manner as he would be liable under Section 1793.5 for an express warranty. If a manufacturer provides for warranty repairs and service through its own service and repair facilities and through independent repair facilities in the state, its exclusive liability pursuant to this section shall be to such facilities.

(Added Ch. 844, Stats. 1974. Operative July 1, 1975.)

Motor Vehicle Warranty Adjustment Programs

1795.90. For purposes of this chapter:

(a) "Consumer" means the purchaser, other than for purposes of resale, of a motor vehicle, a lessee of a motor vehicle, any person to whom the motor vehicle is transferred during the duration of an express warranty applicable to that motor vehicle, and any person entitled by the terms of the warranty to enforce the obligations of the warranty.

(b) "Manufacturer" means any person, firm, or corporation, whether resident or nonresident, that manufactures or assembles motor vehicles for sale or distribution in this state. In the case of motor vehicles not manufactured in the United States, the term "manufacturer" shall also include any person, firm, or corporation that is engaged in the business of importing motor vehicles.

(c) "Dealer" means any person, firm, or corporation selling or agreeing to sell in this state one or more new motor vehicles under a retail agreement with a manufacturer, manufacturer branch, distributor, distributor branch, or agent of any of them.

(d) "Adjustment program" means any program or policy that expands or extends the consumer's warranty beyond its stated limit or under which a manufacturer offers to pay for all or any part of the cost of repairing, or to reimburse consumers for all or any part of the cost of repairing, any condition that may substantially affect vehicle durability, reliability, or performance, other than service provided under a safety or emission-related recall campaign. "Adjustment program" does not include ad hoc adjustments made by a manufacturer on a case-by-case basis.

(e) "Motor vehicle" means a motor vehicle, excluding motorcycles, motor homes, and off-road vehicles, which is registered in this state.

(f) "Lessee" means any person who leases a motor vehicle pursuant to a written lease which provides that the lessee is responsible for repairs to the motor vehicle.

(g) "Service bulletin" means any notice issued by a manufacturer and filed with the National Highway Traffic Safety Administration relating to vehicle durability, reliability, or performance.

1795.91. Dealers shall have the following duties:

(a) A dealer shall provide notice to prospective purchasers and lessees that provides information on how to get copies of service bulletins. Nothing in this notice shall be construed as an admission by the dealer or manufacturer of the existence or nonexistence of a vehicle defect.

The notice shall be deemed sufficient if posted in the showroom or other area conspicuous to motor vehicle purchasers and written in the following form:

FEDERAL LAW REQUIRES MANUFACTURERS TO FURNISH THE NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION (N.H.T.S.A.) WITH BULLETINS DESCRIBING ANY DEFECTS IN THEIR VEHICLES.

YOU MAY OBTAIN COPIES OF THESE BULLETINS, FOR A FEE, FROM EITHER OF THE FOLLOWING:

THE MANUFACTURER (ASK YOUR DEALER FOR THE TOLL-FREE NUMBER)

N.H.T.S.A–TECHNICAL REFERENCE DIVISION
400 SEVENTH STREET, S.W.
ROOM 5110
WASHINGTON, D.C. 20590
202-366-2768

IN ADDITION, CERTAIN CONSUMER PUBLICATIONS PUBLISH THESE BULLETINS AND SOME COMPANIES WILL SEND THEM TO YOU, FOR A FEE.

(b) A dealer shall disclose to a consumer seeking repairs for a particular condition at its repair shop, the principal terms and conditions of the manufacturer's adjustment program covering the condition if the dealer has received a service bulletin concerning the adjustment program.

1795.92. Manufacturers shall have the following duties:

(a) A manufacturer shall, within 90 days of the adoption of an adjustment program, subject to priority for safety or emission-related recalls, notify by first-class mail all owners or lessees of motor vehicles eligible under the program of the condition giving rise to and the principal terms and conditions of the program.

(b) Copies of all notices mailed in accordance with subdivision (a) shall be sent to the New Motor Vehicle Board within the Department of Motor Vehicles and made available for public inquires.

(c) A manufacturer shall, within 30 days of the adoption of any new adjustment program, notify its dealers, in writing, of all the terms and conditions thereof.

(d) A manufacturer who establishes an adjustment program shall implement procedures to assure reimbursement of each consumer eligible under an adjustment program who incurs expenses for repair of a condition subject to the program prior to acquiring knowledge of the program. The reimbursement shall be consistent with the terms and conditions of the particular program. The manufacturer shall notify the consumer within 21 business days of receiving a claim for reimbursement whether the claim will be allowed or denied. If the claim is denied, the specific reasons for the denial shall be stated in writing.

(e) Any consumer who, prior to acquiring knowledge of an adjustment program, incurs expenses for repair of a condition subject to the adjustment program may file a claim for reimbursement under subdivision (d). The claim shall be made in writing to the manufacturer within two years of the date of the consumer's payment for repair of the condition.

1795.93. Nothing in this chapter shall be construed to exclude, modify, or otherwise limit any other remedy provided by law to a consumer or lessee.

(Added Ch. 814, Stats. 1993. Effective January 1, 1994.)

Standards for Warranty Work

1796. Any individual, partnership, corporation, association, or other legal relationship which engages in the business of installing new or used consumer goods, has a duty to the buyer to install them in a good and workmanlike manner.

(Added Ch. 991, Stats. 1978. Effective January 1, 1979)

1796.5. Any individual, partnership, corporation, association, or other legal relationship which engages in the business of providing service or repair to new or used consumer goods has a duty to the purchaser to perform those services in a good and workmanlike manner.

(Added Ch. 991, Stats. 1978. Effective January 1, 1979.)

Grey Market Goods

1797.8. (a) As used in this chapter, the term "grey market goods" means consumer goods bearing a trademark and normally accompanied by an express written warranty valid in the United States of America which are imported into the United States through channels other than the manufacturer's authorized United States distributor and which are not accompanied by the manufacturer's express written warranty valid in the United States.

(b) As used in this chapter, the term "sale" includes a lease of more than four months.

1797.81. (a) Every retail seller who offers grey market goods for sale shall post a conspicuous sign at the product's point of display and affix to the product or its package a conspicuous ticket, label, or tag disclosing any or all of the following, whichever is applicable:

(1) The item is not covered by a manufacturer's express written warranty valid in the United States (however, any implied warranty provided by law still exists).

(2) The item is not compatible with United States electrical currents.

(3) The item is not compatible with United States broadcast frequencies.

(4) Replacement parts are not available through the manufacturer's United States distributors.

(5) Compatible accessories are not available through the manufacturer's United States distributors.

(6) The item is not accompanied by instructions in English.

(7) The item is not eligible for a manufacturer's rebate.

(8) Any other incompatibility or nonconformity with relevant domestic standards known to the seller.

(b) The disclosure described in paragraph (1) of subdivision (a) shall not be required to be made by a retail seller with respect to grey market goods that are accompanied by an express written warranty provided by the retail seller, provided that each of the following conditions is satisfied:

(1) The protections and other benefits that are provided to the buyer by the express written warranty provided by the retail seller are equal to or better than the protections and other benefits that are provided to buyers in the United States of America by the manufacturer's express written warranty that normally accompanies the goods.

(2) The express written warranty conforms to the requirements of the Song-Beverly Consumer Warranty Act, (Chapter 1 (commencing with Section 1790)), including, but not limited to, the warranty disclosure standards specified in Section 1793.1, and the standards applicable to service and repair facilities specified in Section 1793.2.

(3) The retail seller has posted a conspicuous sign at the product's point of sale or display, or has affixed to the product or its package a conspicuous ticket, label, or tag that informs prospective buyers that copies of all of the warranties applicable to the products offered for sale by the retail seller are available to prospective buyers for inspection upon request.

(4) The retail seller has complied with the provisions on presale availability of written warranties set forth in the regulations of the Federal Trade Commission adopted pursuant to the federal Magnuson-Moss Warranty-Federal Trade Commission Improvement Act (see 15 U.S.C.A. Sec. 2302(b)(1)(A) and 16 C.F.R. 702.1 et seq.).

(c) Nothing in subdivision (b) shall affect the obligations of a retail seller to make the disclosures, if any, required by any other paragraph of subdivision (a).

1797.82. Every retail dealer who offers for sale grey market goods shall be required to disclose in any advertisement of those goods the disclosures required by Section 1797.81. The disclosure shall be made in a type of conspicuous size.

1797.83. In making the disclosures prescribed by this chapter, the retail seller may use reasonably equivalent language if necessary or appropriate to achieve a clearer, or more accurate, disclosure.

1797.84. Nothing in this chapter shall be construed to authorize any sale of goods which is specifically prohibited by a federal or state statute or regulation or a local ordinance or regulation, or to relieve the seller of any responsibility for bringing the goods into compliance with any applicable federal or state statute or regulation or local ordinance or regulation.

1797.85. Any retail seller who violates this chapter shall be liable to the buyer who returns the product for a refund, or credit on credit purchases, if the product purchased has not been used in a manner inconsistent with any printed instructions provided by the seller.

1797.86. Any violation of this chapter constitutes unfair competition under Section 17200 of the Business and Professions Code, grounds for rescission under Section 1689 of this code, and an unfair method of competition or deceptive practice under Section 1770 of this code.

1798.24. No agency may disclose any personal information in a manner that would link the information disclosed to the individual to whom it pertains unless the information is ***disclosed, as follows***:

(a) To the individual to whom the information pertains.

(b) With the prior written voluntary consent of the individual to whom the record pertains, but only if ***that*** consent has been obtained not more than 30 days before the disclosure, or in the time limit agreed to by the individual in the written consent.

(c) To the duly appointed guardian or conservator of the individual or a person representing the individual ***if*** it can be proven with reasonable certainty through the possession of agency forms, documents or correspondence that ***this*** person is the authorized representative of the individual to whom the information pertains. .

(d) To those officers, employees, attorneys, agents, or volunteers of the agency ***that*** has custody of the information if the disclosure is relevant and necessary in the ordinary course of the performance of their official duties and is related to the purpose for which the information was acquired.

(e) To a person, or to another agency where the transfer is necessary for the transferee agency to perform its constitutional or statutory duties, and the use is compatible with a purpose for which

the information was collected and the use or transfer is accounted for in accordance with Section 1798.25. With respect to information transferred from a law enforcement or regulatory agency, or information transferred to another law enforcement or regulatory agency, a use is compatible if the use of the information requested is needed in an investigation of unlawful activity under the jurisdiction of the requesting agency or for licensing, certification, or regulatory purposes by that agency.

(f) To a governmental entity when required by state or federal law.

(g) Pursuant to the California Public Records Act *(*Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code*)*.

(h) To a person who has provided the agency with advance*,* adequate written assurance that the information will be used solely for statistical research or reporting purposes, but only if the information to be disclosed is in a form that will not identify any individual.

(i) Pursuant to a determination by the agency ***that*** maintains information that compelling circumstances exist ***that*** affect the health or safety of an individual, if upon the disclosure notification is transmitted to the individual to whom the information pertains at his or her last known address. Disclosure shall not be made if it is in conflict with other state or federal laws.

(j) To the State Archives as a record ***that*** has sufficient historical or other value to warrant its continued preservation by the California state government, or for evaluation by the Director of General Services or his or her designee to determine whether the record has further administrative, legal, or fiscal value.

(k) To any person pursuant to a subpoena, court order, or other compulsory legal process if, before the disclosure, the agency reasonably attempts to notify the individual to whom the record pertains, and if the notification is not prohibited by law.

(*l*) To any person pursuant to a search warrant.

(m) Pursuant to Article 3 (commencing with Section 1800) of Chapter 1 of Division 2 of the Vehicle Code.

(n) For the sole purpose of verifying and paying government health care service claims made pursuant to Division 9 (commencing with Section 10000) of the Welfare and Institutions Code.

(o) To a law enforcement or regulatory agency when required for an investigation of unlawful activity or for licensing, certification, or regulatory purposes, unless the disclosure is otherwise prohibited by law.

(p) To another person or governmental organization to the extent necessary to obtain information from the person or governmental organization as necessary for an investigation by the agency of a failure to comply with a specific state law ***that*** the agency is responsible for enforcing.

(q) To an adopted person and is limited to general background information pertaining to the adopted person's natural parents, provided that the information does not include or reveal the identity of the natural parents.

(r) To a child or a grandchild of an adopted person and disclosure is limited to medically necessary information pertaining to the adopted person"s natural parents. However, the information, or the process for obtaining the information, shall not include or reveal the identity of the natural parents. The State Department of Social Services shall adopt regulations governing the release of information pursuant to this subdivision by July 1, 1985. The regulations shall require licensed adoption agencies to provide the same services provided by the department as established by this subdivision.

(s) To a committee of the Legislature or to a Member of the Legislature, or his or her staff when authorized in writing by the member, where the member has permission to obtain the information from the individual to whom it pertains or where the member provides reasonable assurance that he or she is acting on behalf of the individual.

(t) (1) To the University of California or a nonprofit educational institution conducting scientific research, provided the request for information ***is approved by the Committee for the Protection of Human Subjects (CPHS) for the California Health and Human Services Agency (CHHSA). The CPHS approval required under this subdivision shall include a review and determination that all the following criteria have been satisfied:***

(A) The researcher has provided a plan sufficient to protect personal information from improper use and disclosures, including sufficient administrative, physical, and technical safeguards to protect personal information from reasonable anticipated threats to the security or confidentiality of the information.

(B) The researcher has provided a sufficient plan to destroy or return all personal information as soon as it is no longer needed for the research project, unless the researcher has demonstrated an ongoing need for the personal information for the research project and has provided a long-term plan sufficient to protect the confidentiality of that information.

(C) The researcher has provided sufficient written assurances that the personal information will not be reused or disclosed to any other person or entity, or used in any manner, not approved in the research protocol, except as required by law or for authorized oversight of the research project.

(2) The CPHS shall, at a minimum, accomplish all of the following as part of its review and approval of the research project for the purpose of protecting personal information held in agency databases:

(A) Determine whether the requested personal information is needed to conduct the research.

(B) Permit access to personal information only if it is needed for the research project.

(C) Permit access only to the minimum necessary personal information needed for the research project.

(D) Require the assignment of unique subject codes that are not derived from personal information in lieu of social security numbers if the research can still be conducted without social security numbers.

(E) If feasible, and if cost, time, and technical expertise permit, require the agency to conduct a portion of the data processing for the researcher to minimize the release of personal information.

(3) Reasonable costs to the agency associated with the agency's process of protecting personal information under the conditions of CPHS approval may be billed to the researcher, including, but not limited to, the agency's costs for conducting a portion of the data processing for the researcher, removing personal information, encrypting or otherwise securing personal information, or assigning subject codes.

(4) This subdivision does not prohibit the CPHS from using its existing authority to enter into written agreements to enable other institutional review boards to approve projects or classes of projects for the CPHS, provided the data security requirements set forth in this subdivision are satisfied.

(u) To an insurer if authorized by Chapter 5 (commencing with Section 10900) of Division 4 of the Vehicle Code.

(v) Pursuant to Section 1909, 8009, or 18396 of the Financial Code.

(Amended Sec. 2, Ch. 241, Stats. 2005. Effective January 1, 2006.)

Information Practices Act

1798.26. With respect to the sale of information concerning the registration of any vehicle or the sale of information from the files of drivers' licenses, the Department of Motor Vehicles shall, by regulation, establish administrative procedures under which any person making a request for information shall be required to identify himself or herself and state the reason for making the request. These procedures shall provide for the verification of the name and address of the person making a request for the information and the department may require the person to produce the information as it determines is necessary in order to ensure that the name and address of the person are his or her true name and address. These procedures may provide for a 10-day delay in the release of the requested information. These procedures shall also provide for notification to the person to whom the information primarily relates, as to what information was provided and to whom it was provided. The department shall, by regulation, establish a reasonable period of time for which a record of all the foregoing shall be maintained.

The procedures required by this subdivision do not apply to any governmental entity, any person who has applied for and has been issued a requester code by the department, or any court of competent jurisdiction.

(Amended Ch. 1213, Stats. 1989. Effective January 1, 1990.)

1798.29. (a) Any agency that owns or licenses computerized data that includes personal information shall disclose any breach of the security of the system following discovery or notification of the breach in the security of the data to any resident of California whose unencrypted personal information was, or is reasonably believed to have been, acquired by an unauthorized person. The disclosure shall

be made in the most expedient time possible and without unreasonable delay, consistent with the legitimate needs of law enforcement, as provided in subdivision (c), or any measures necessary to determine the scope of the breach and restore the reasonable integrity of the data system.

(b) Any agency that maintains computerized data that includes personal information that the agency does not own shall notify the owner or licensee of the information of any breach of the security of the data immediately following discovery, if the personal information was, or is reasonably believed to have been, acquired by an unauthorized person.

(c) The notification required by this section may be delayed if a law enforcement agency determines that the notification will impede a criminal investigation. The notification required by this section shall be made after the law enforcement agency determines that it will not compromise the investigation.

(d) For purposes of this section, "breach of the security of the system" means unauthorized acquisition of computerized data that compromises the security, confidentiality, or integrity of personal information maintained by the agency. Good faith acquisition of personal information by an employee or agent of the agency for the purposes of the agency is not a breach of the security of the system, provided that the personal information is not used or subject to further unauthorized disclosure.

(e) For purposes of this section, "personal information" means an individual's first name or first initial and last name in combination with any one or more of the following data elements, when either the name or the data elements are not encrypted:

(1) Social security number.

(2) Driver's license number or California Identification Card number.

(3) Account number, credit or debit card number, in combination with any required security code, access code, or password that would permit access to an individual's financial account.

(f) For purposes of this section, "personal information" does not include publicly available information that is lawfully made available to the general public from federal, state, or local government records.

(g) For purposes of this section, "notice" may be provided by one of the following methods:

(1) Written notice.

(2) Electronic notice, if the notice provided is consistent with the provisions regarding electronic records and signatures set forth in Section 7001 of Title 15 of the United States Code.

(3) Substitute notice, if the agency demonstrates that the cost of providing notice would exceed two hundred fifty thousand dollars ($250,000), or that the affected class of subject persons to be notified exceeds 500,000, or the agency does not have sufficient contact information. Substitute notice shall consist of all of the following:

(A) E-mail notice when the agency has an e-mail address for the subject persons.

(B) Conspicuous posting of the notice on the agency's Web site page, if the agency maintains one.

(C) Notification to major statewide media.

(h) Notwithstanding subdivision (g), an agency that maintains its own notification procedures as part of an information security policy for the treatment of personal information and is otherwise consistent with the timing requirements of this part shall be deemed to be in compliance with the notification requirements of this section if it notifies subject persons in accordance with its policies in the event of a breach of security of the system.

(Added Sec. 2, Ch. 1054, Stats. 2002. Effective January 1, 2003. Operative July 1, 2003.)

1798.82. (a) Any person or business that conducts business in California, and that owns or licenses computerized data that includes personal information, shall disclose any breach of the security of the system following discovery or notification of the breach in the security of the data to any resident of California whose unencrypted personal information was, or is reasonably believed to have been, acquired by an unauthorized person. The disclosure shall be made in the most expedient time possible and without unreasonable delay, consistent with the legitimate needs of law enforcement, as provided in subdivision (c), or any measures necessary to determine the scope of the breach and restore the reasonable integrity of the data system.

(b) Any person or business that maintains computerized data that includes personal information that the person or business does not own shall notify the owner or licensee of the information of any breach of the security of the data immediately following discovery, if the personal information was, or is reasonably believed to have been, acquired by an unauthorized person.

(c) The notification required by this section may be delayed if a law enforcement agency determines that the notification will impede a criminal investigation. The notification required by this section shall be made after the law enforcement agency determines that it will not compromise the investigation.

(d) For purposes of this section, "breach of the security of the system" means unauthorized acquisition of computerized data that compromises the security, confidentiality, or integrity of personal information maintained by the person or business. Good faith acquisition of personal information by an employee or agent of the person or business for the purposes of the person or business is not a breach of the security of the system, provided that the personal information is not used or subject to further unauthorized disclosure.

(e) For purposes of this section, "personal information" means an individual's first name or first initial and last name in combination with any one or more of the following data elements, when either the name or the data elements are not encrypted:

(1) Social security number.

(2) Driver's license number or California Identification Card number.

(3) Account number, credit or debit card number, in combination with any required security code, access code, or password that would permit access to an individual's financial account.

(f) For purposes of this section, "personal information" does not include publicly available information that is lawfully made available to the general public from federal, state, or local government records.

(g) For purposes of this section, "notice" may be provided by one of the following methods:

(1) Written notice.

(2) Electronic notice, if the notice provided is consistent with the provisions regarding electronic records and signatures set forth in Section 7001 of Title 15 of the United States Code.

(3) Substitute notice, if the person or business demonstrates that the cost of providing notice would exceed two hundred fifty thousand dollars ($250,000), or that the affected class of subject persons to be notified exceeds 500,000, or the person or business does not have sufficient contact information. Substitute notice shall consist of all of the following:

(A) E-mail notice when the person or business has an e-mail address for the subject persons.

(B) Conspicuous posting of the notice on the Web site page of the person or business, if the person or business maintains one.

(C) Notification to major statewide media.

(h) Notwithstanding subdivision (g), a person or business that maintains its own notification procedures as part of an information security policy for the treatment of personal information and is otherwise consistent with the timing requirements of this part, shall be deemed to be in compliance with the notification requirements of this section if the person or business notifies subject persons in accordance with its policies in the event of a breach of security of the system.

(Added Sec. 4, Ch. 1054, Stats. 2002. Effective January 1, 2003. Operative July 1, 2003.)

TITLE 1.81.2. CONFIDENTIALITY OF DRIVER'S LICENSE INFORMATION

1798.90.1. (a) (1) Any business may swipe a driver's license or identification card issued by the Department of Motor Vehicles in any electronic device for the following purposes:

(A) To verify age or the authenticity of the driver's license or identification card.

(B) To comply with a legal requirement to record, retain, or transmit that information.

(C) To transmit information to a check service company for the purpose of approving negotiable instruments, electronic funds transfers, or similar methods of payments, provided that only the name and identification number from the license or the card may be used or retained by the check service company.

(D) To collect or disclose personal information that is required for reporting, investigating, or preventing fraud, abuse, or material misrepresentation.

(2) A business may not retain or use any of the information obtained by that electronic means for any purpose other than as provided herein.

(b) As used in this section, "business" means a proprietorship, partnership, corporation, or any other form of commercial enterprise.

(c) A violation of this section constitutes a misdemeanor punishable by imprisonment in a county jail for no more than one year, or by a fine of no more than ten thousand dollars ($10,000), or by both.

(Added Sec. 4, Ch. 533, Stats. 2003. Effective January 1, 2004.)

TITLE 1.81.3. IDENTITY THEFT

1798.92. For the purposes of this title:

(a) "Claimant" means a person who has or purports to have a claim for money or an interest in property in connection with a transaction procured through identity theft.

(b) "Identity theft" means the unauthorized use of another person's personal identifying information to obtain credit, goods, services, money, or property.

(c) "Personal identifying information" means a person's name, address, telephone number, driver's license number, social security number, place of employment, employee identification number, mother's maiden name, demand deposit account number, savings account number, or credit card number.

(d) "Victim of identity theft" means a person who had his or her personal identifying information used without authorization by another to obtain credit, goods, services, money, or property, and did not use or possess the credit, goods, services, money, or property obtained by the identity theft, and filed a police report in this regard pursuant to Section 530.5 of the Penal Code.

(Added Sec. 21, Ch. 354, Stats. 2001. Effective January 1, 2002.)

Motor Vehicle Sales and Finance Act

2981. As used in this chapter, unless the context otherwise requires:

(a) "Conditional sale contract" means:

(1) A contract for the sale of a motor vehicle between a buyer and a seller, with or without accessories, under which possession is delivered to the buyer and either of the following:

(A) The title vests in the buyer thereafter only upon the payment of all or a part of the price, or the performance of any other condition.

(B) A lien on the property is to vest in the seller as security for the payment of part or all of the price, or for the performance of any other condition.

(2) ***A*** contract for the bailment of a motor vehicle between a buyer and a seller, with or without accessories, by which the bailee or lessee agrees to pay as compensation for use a sum substantially equivalent to or in excess of the aggregate value of the vehicle and its accessories, if any, at the time the contract is executed, and by which it is agreed that the bailee or lessee will become, or for no other or for a nominal consideration has the option of becoming, the owner of the vehicle upon full compliance with the terms of the contract.

(b) "Seller" means a person engaged in the business of selling or leasing motor vehicles under conditional sale contracts.

(c) "Buyer" means the person who buys or hires a motor vehicle under a conditional sale contract.

(d) "Person" includes an individual, company, firm, association, partnership, trust, corporation, limited liability company, or other legal entity.

(e) "Cash price" means the amount for which the seller would sell and transfer to the buyer unqualified title to the motor vehicle described in the conditional sale contract, if the property were sold for cash at the seller's place of business on the date the contract is executed, and shall include taxes to the extent imposed on the cash sale and the cash price of accessories or services related to the sale***, including, but not limited to,*** delivery, installation, alterations, modifications, improvements, document preparation fees, a service contract, ***a vehicle contract cancellation option agreement,*** and payment of a prior credit or lease balance remaining on property being traded in.

(f) "Downpayment" means ***a*** payment ***that*** the buyer pays or agrees to pay to the seller in cash or property value or money's worth at or prior to delivery by the seller to the buyer of the motor vehicle described in the conditional sale contract. The term shall also include the amount of any portion of the downpayment the payment of which is deferred until not later than the due date of the second otherwise scheduled payment, if the amount of the deferred downpayment is not subject to a finance charge. The term does not include any administrative finance charge charged, received or collected by the seller as provided in this chapter.

(g) "Amount financed" means the amount required to be disclosed pursuant to paragraph (8) of subdivision (a) of Section 2982.

(h) "Unpaid balance" means the difference between subdivision (e) and ***subdivision*** (f), plus all insurance premiums (except for credit life or disability insurance when the amount thereof is included in the finance charge), which are included in the contract balance, and the total amount paid or to be paid ***as follows:***

(1) To a public officer in connection with the transaction.

(2) For license, certificate of title, and registration fees imposed by law, and the amount of the state fee for issuance of a certificate of compliance or certificate of waiver pursuant to Section 9889.56 of the Business and Professions Code.

(i) "Finance charge" has the meaning set forth for that term in Section 226.4 of Regulation Z. The term shall not include delinquency charges or collection costs and fees as provided by subdivision (k) of Section 2982, extension or deferral agreement charges as provided by Section 2982.3, or amounts for insurance, repairs to or preservation of the motor vehicle, or preservation of the security interest therein advanced by the holder under the terms of the contract.

(j) "Total of payments" means the amount required to be disclosed pursuant to subdivision (h) of Section 226.18 of Regulation Z. The term includes any portion of the downpayment ***that*** is deferred until not later than the second otherwise scheduled payment and ***that*** is not subject to a finance charge. The term shall not include amounts for which the buyer may later become obligated under the terms of the contract in connection with insurance, repairs to or preservation of the motor vehicle, preservation of the security interest therein, or otherwise.

(k) "Motor vehicle" means ***a*** vehicle required to be registered under the Vehicle Code ***that*** is bought for use primarily for personal or family purposes, and does not mean any vehicle ***that*** is bought for use primarily for business or commercial purposes or a mobilehome, as defined in Section 18008 of the Health and Safety Code ***that*** is sold on or after July 1, 1981. "Motor vehicle" does not include any trailer ***that*** is sold in conjunction with a vessel and ***that*** comes within the definition of "goods" under Section 1802.1.

(*l*) "Purchase order" means a sales order, car reservation, statement of transaction or any other such instrument used in the conditional sale of a motor vehicle pending execution of a conditional sale contract. The purchase order shall conform to the disclosure requirements of subdivision (a) of Section 2982 and Section 2984.1**,** and subdivision (m) of Section 2982 shall ***apply***.

(m) "Regulation Z" means ***a*** rule, regulation or interpretation promulgated by the Board of Governors of the Federal Reserve System ("Board") under the federal Truth in Lending Act, as amended (15 U.S.C. 1601, et seq.), and ***an*** interpretation or approval issued by an official or employee of the Federal Reserve System duly authorized by the board under the Truth in Lending Act, as amended, to issue ***the*** interpretations or approvals.

(n) "Simple-interest basis" means the determination of a finance charge, other than an administrative finance charge, by applying a constant rate to the unpaid balance as it changes from time to time either:

(1) Calculated on the basis of a 365-day year and actual days elapsed (although the seller may, but need not, adjust its calculations to account for leap years); reference in this chapter to the "365-day basis" shall mean this method of determining the finance charge, or

(2) For contracts entered into prior to January 1, 1988, calculated on the basis of a 360-day year consisting of 12 months of 30 days each and on the assumption that all payments will be received by the seller on their respective due dates; reference in this chapter to the "360-day basis" shall mean this method of determining the finance charge.

(o) "Precomputed basis" means the determination of a finance charge by multiplying the original unpaid balance of the contract by a rate and multiplying that product by the number of payment periods elapsing between the date of the contract and the date of the last scheduled payment.

(p) ***"Service contract" means "vehicle service contract" as defined in subdivision (c) of Section 12800 of the Insurance Code.***

(q) "Surface protection product" means the following products installed by the seller after the motor vehicle is sold:

(1) Undercoating.

(2) Rustproofing.
(3) Chemical or film paint sealant or protectant.
(4) Chemical sealant or stain inhibitor for carpet and fabric.
(r) "Theft deterrent device" means the following devices installed by the seller after the motor vehicle is sold:
(1) A vehicle alarm system.
(2) A window etch product.
(3) A body part marking product.
(4) A steering lock.
(5) A pedal or ignition lock.
(6) A fuel or ignition kill switch.
(Amended Sec. 2, Ch. 128, Stats. 2005. Effective January 1, 2006. Operative July 1, 2006.)

2981.5. A contract for the bailment or leasing of a motor vehicle, with or without accessories, which establishes the maximum for which a bailee or lessee could be held liable at the end of the lease or bailment period, or upon an earlier termination, by reference to the value of the vehicle at such time, is not a contract by which the bailee or lessee will become or for no other or for a nominal consideration has the option of becoming the owner of the vehicle, for the purposes of paragraph (2) of subdivision (a) of Section 2981 or any other provision of this chapter.
(Added Ch. 696, Stats. 1973. Effective January 1, 1974.)

2981.7. All contracts entered into between a buyer and a seller on or after January 1, 1983, shall provide for the calculation of the finance charge contemplated by item (A) of paragraph (1) of subdivision (c) of Section 2982 on the simple- interest basis, if the date on which the final installment is due, according to the original terms of the contract, is more than 62 months after the date of the contract.
(Added Ch. 805, Stats. 1979. Effective January 1, 1980.)

2981.8. No contract shall provide for a finance charge which is determined in part by the precomputed basis and in part by the simple-interest basis except for any finance charge permitted by subdivisions (a) and (c) of Section 2982.8.
(Amended Ch. 1380, Stats. 1980. Effective October 1, 1980. Supersedes Ch. 1149.)

2981.9. Every conditional sale contract subject to this chapter shall be in writing and, if printed, shall be printed in type no smaller than 6-point, and shall contain in a single document all of the agreements of the buyer and seller with respect to the total cost and the terms of payment for the motor vehicle, including any promissory notes or any other evidences of indebtedness. The conditional sale contract or a purchase order shall be signed by the buyer or his or her authorized representative and by the seller or its authorized representative. An exact copy of the contract or purchase order shall be furnished to the buyer by the seller at the time the buyer and the seller have signed it. No motor vehicle shall be delivered pursuant to a contract subject to this chapter until the seller delivers to the buyer a fully executed copy of the conditional sale contract or purchase order and any vehicle purchase proposal and any credit statement which the seller has required or requested the buyer to sign and which he or she has signed during the contract negotiations. The seller shall not obtain the signature of the buyer to a contract when it contains blank spaces to be filled in after it has been signed.
(Added Ch. 1075, Stats. 1981. Operative April 1, 1982.)

2982. ***A*** conditional sale contract subject to this chapter shall contain the disclosures required by Regulation Z, whether or not Regulation Z applies to the transaction. In addition, to the extent applicable, the contract shall contain the other disclosures and notices required by, and shall satisfy the requirements and limitations of, this section. The disclosures required by subdivision (a) may be itemized or subtotaled to a greater extent than as required by that subdivision and shall be made together and in the sequence set forth in that subdivision. All other disclosures and notices may appear in the contract in any location or sequence and may be combined or interspersed with other provisions of the contract.
(a) The contract shall contain the following disclosures, as applicable, which shall be labeled "itemization of the amount financed***:***"
(1) (A) The cash price, exclusive of document preparation fees, ***business partnership automation fees,*** taxes imposed on the sale, pollution control certification fees, prior credit or lease balance on property being traded in, the amount charged for a service contract***, the amount charged for a theft deterrent system, the amount charged for a surface protection product, the amount charged for an optional debt cancellation agreement, and the amount charged for a contract cancellation option agreement***.
(B) The fee to be retained by the seller for document preparation.
(C) The fee charged by the seller for certifying that the motor vehicle complies with applicable pollution control requirements.
(D) ***A charge for a theft deterrent device.***
(E) A charge for a surface protection product.
(F) Taxes imposed on the sale.
(G) The amount of any optional business partnership automation fee to register or transfer the vehicle, which shall be labeled "Optional DMV Electronic Filing Fee."
(H) The amount charged for a service contract.
(I) The prior credit or lease balance remaining on property being traded in, as required by paragraph (6). The disclosure required by this subparagraph shall be labeled "prior credit or lease balance (see downpayment and trade-in calculation)."
(J) Any charge for an optional debt cancellation agreement.
(K) Any charge for a used vehicle contract cancellation option agreement.
(L) The total cash price, which is the sum of subparagraphs (A) to ***(K)***, inclusive.
(M) The disclosures described in subparagraphs (D), (E), and (K) are not required on contracts involving the sale of a motorcycle, as defined in Section 400 of the Vehicle Code, or on contracts involving the sale of an off-highway motor vehicle that is subject to identification under Section 38010 of the Vehicle Code, and the amounts of those charges, if any, are not required to be reflected in the total price under subparagraph (L).
(2) Amounts paid to public officials for the following:
(A) Vehicle license fees.
(B) Registration, transfer, and titling fees.
(C) California tire fees imposed pursuant to Section 42885 of the Public Resources Code.
(3) The aggregate amount of premiums agreed, upon execution of the contract, to be paid for policies of insurance included in the contract, excluding the amount of any insurance premium included in the finance charge.
(4) The amount of the state fee for issuance of a certificate of compliance, noncompliance, exemption, or waiver pursuant to any applicable pollution control statute.
(5) A subtotal representing the sum of the foregoing items.
(6) The amount of the buyer's downpayment itemized to show the following:
(A) The agreed value of the property being traded in.
(B) The prior credit or lease balance, if any, owing on the property being traded in.
(C) The net agreed value of the property being traded in, which is the difference between the amounts disclosed in subparagraphs (A) and (B). If the prior credit or lease balance of the property being traded in exceeds the agreed value of the property, a negative number shall be stated.
(D) The amount of any portion of the downpayment to be deferred until not later than the due date of the second regularly scheduled installment under the contract and ***that*** is not subject to a finance charge.
(E) The amount of any manufacturer's rebate applied or to be applied to the downpayment.
(F) The remaining amount paid or to be paid by the buyer as a downpayment.
(G) The total downpayment. If the sum of subparagraphs (C) to (F), inclusive, is zero or more, that sum shall be stated as the total downpayment and no amount shall be stated as the prior credit or lease balance under subparagraph ***(I)*** of paragraph (1). If the sum of subparagraphs (C) to (F), inclusive, is less than zero, then that sum, expressed as a positive number, shall be stated as the prior credit or lease balance under subparagraph ***(I)*** of paragraph (1), and zero shall be stated as the total downpayment. The disclosure required by this subparagraph shall be labeled "total downpayment" and shall contain a descriptor indicating that if the total downpayment is a negative number, a zero shall be disclosed as the total downpayment and a reference made that the remainder shall be included in the disclosure required pursuant to subparagraph ***(I)*** of paragraph (1).
(7) The amount of any administrative finance charge, labeled "prepaid finance charge."

(8) The difference between item (5) and the sum of items (6) and (7), labeled "amount financed."

(b) No particular terminology is required to disclose the items set forth in subdivision (a) except as expressly provided in that subdivision.

(c) If payment of all or a portion of the downpayment is to be deferred, the deferred payment shall be reflected in the payment schedule disclosed pursuant to Regulation Z.

(d) If the downpayment includes property being traded in, the contract shall contain a brief description of that property.

(e) The contract shall contain the names and addresses of all persons to whom the notice required under Section 2983.2 and permitted under Sections 2983.5 and 2984 is to be sent.

(f) (1) If the contract includes a finance charge determined on the precomputed basis, the contract shall identify the method of computing the unearned portion of the finance charge in the event of prepayment in full of the buyer's obligation and contain a statement of the amount or method of computation of any charge that may be deducted from the amount of any unearned finance charge in computing the amount that will be credited to the obligation or refunded to the buyer. The method of computing the unearned portion of the finance charge shall be sufficiently identified with a reference to the actuarial method if the computation will be under that method. The method of computing the unearned portion of the finance charge shall be sufficiently identified with a reference to the Rule of 78's, the sum of the digits, or the sum of the periodic time balances method in all other cases, and those references shall be deemed to be equivalent for disclosure purposes.

(2) If the contract includes a finance charge ***that*** is determined on the simple-interest basis but provides for a minimum finance charge in the event of prepayment in full, the contract shall contain a statement of that fact and the amount of the minimum finance charge or its method of calculation.

(g) (1) If the contract includes a finance charge ***that*** is determined on the precomputed basis and provides that the unearned portion of the finance charge to be refunded upon full prepayment of the contract is to be determined by a method other than actuarial, the contract shall contain a notice, in at least 10-point boldface type if the contract is printed, reading as follows: "Notice to buyer: (1) Do not sign this agreement before you read it or if it contains any blank spaces to be filled in. (2) You are entitled to a completely filled-in copy of this agreement. (3) You can prepay the full amount due under this agreement at any time and obtain a partial refund of the finance charge if it is $1 or more. Because of the way the amount of this refund will be figured, the time when you prepay could increase the ultimate cost of credit under this agreement. (4) If you default in the performance of your obligations under this agreement, the vehicle may be repossessed and you may be subject to suit and liability for the unpaid indebtedness evidenced by this agreement."

(2) If the contract includes a finance charge ***that*** is determined on the precomputed basis and provides for the actuarial method for computing the unearned portion of the finance charge upon prepayment in full, the contract shall contain a notice, in at least 10-point boldface type if the contract is printed, reading as follows: "Notice to buyer: (1) Do not sign this agreement before you read it or if it contains any blank spaces to be filled in. (2) You are entitled to a completely filled-in copy of this agreement. (3) You can prepay the full amount due under this agreement at any time and obtain a partial refund of the finance charge if it is $1 or more. (4) If you default in the performance of your obligations under this agreement, the vehicle may be repossessed and you may be subject to suit and liability for the unpaid indebtedness evidenced by this agreement."

(3) If the contract includes a finance charge ***that*** is determined on the simple-interest basis, the contract shall contain a notice, in at least 10-point boldface type if the contract is printed, reading as follows: "Notice to buyer: (1) Do not sign this agreement before you read it or if it contains any blank spaces to be filled in. (2) You are entitled to a completely filled-in copy of this agreement. (3) You can prepay the full amount due under this agreement at any time. (4) If you default in the performance of your obligations under this agreement, the vehicle may be repossessed and you may be subject to suit and liability for the unpaid indebtedness evidenced by this agreement."

(h) The contract shall contain a notice in at least 8-point boldface type, acknowledged by the buyer, that reads as follows:

"If you have a complaint concerning this sale, you should try to resolve it with the seller.

Complaints concerning unfair or deceptive practices or methods by the seller may be referred to the city attorney, the district attorney, or an investigator for the Department of Motor Vehicles, or any combination thereof.

After this contract is signed, the seller may not change the financing or payment terms unless you agree in writing to the change. You do not have to agree to any change, and it is an unfair or deceptive practice for the seller to make a unilateral change.

_____
Buyer's Signature"

(i) (1) The contract shall contain an itemization of any insurance included as part of the amount financed disclosed pursuant to paragraph (3) of subdivision (a) and of any insurance included as part of the finance charge. The itemization shall identify the type of insurance coverage and the premium charged therefor, and, if the insurance expires before the date of the last scheduled installment included in the repayment schedule, the term of the insurance shall be stated.

(2) If any charge for insurance, other than for credit life or disability, is included in the contract balance and disbursement of any part thereof is to be made more than one year after the date of the conditional sale contract, any finance charge on the amount to be disbursed after one year shall be computed from the month the disbursement is to be made to the due date of the last installment under the conditional sale contract.

(j) (1) Except for contracts in which the finance charge or portion thereof is determined by the simple-interest basis and the amount financed disclosed pursuant to paragraph (8) of subdivision (a) is more than two thousand five hundred dollars ($2,500), the dollar amount of the disclosed finance charge may not exceed the greater of:

(A) (i) One and one-half percent on so much of the unpaid balance as does not exceed two hundred twenty-five dollars ($225), $1\frac{1}{6}$ percent on so much of the unpaid balance in excess of two hundred twenty-five dollars ($225) as does not exceed nine hundred dollars ($900) and five-sixths of 1 percent on so much of the unpaid balance in excess of nine hundred dollars ($900) as does not exceed two thousand five hundred dollars ($2,500).

(ii) One percent of the entire unpaid balance; multiplied in either case by the number of months (computed on the basis of a full month for any fractional month period in excess of 15 days) elapsing between the date of the contract and the due date of the last installment.

(B) If the finance charge is determined by the precomputed basis, twenty-five dollars ($25).

(C) If the finance charge or a portion thereof is determined by the simple-interest basis:

(i) Twenty-five dollars ($25) if the unpaid balance does not exceed one thousand dollars ($1,000).

(ii) Fifty dollars ($50) if the unpaid balance exceeds one thousand dollars ($1,000) but does not exceed two thousand dollars ($2,000).

(iii) Seventy-five dollars ($75) if the unpaid balance exceeds two thousand dollars ($2,000).

(2) The holder of the contract may not charge, collect, or receive a finance charge ***that*** exceeds the disclosed finance charge, except to the extent (A) caused by the holder's receipt of one or more payments under a contract ***that*** provides for determination of the finance charge or a portion thereof on the 365-day basis at a time or times other than as originally scheduled whether or not the parties enter into an agreement pursuant to Section 2982.3, (B) permitted by paragraph (2), (3), or (4) of subdivision (c) of Section 226.17 of Regulation Z, or (C) permitted by subdivisions (a) and (c) of Section 2982.8.

(3) If the finance charge or a portion thereof is determined by the simple-interest basis and the amount of the unpaid balance exceeds five thousand dollars ($5,000), the holder of the contract may, in lieu of its right to a minimum finance charge under subparagraph (C) of paragraph (1), charge, receive, or collect on the date of the contract an administrative finance charge not to exceed seventy-five dollars ($75), provided that the sum of the administrative finance charge and the portion of the finance charge determined by the simple-interest basis shall not exceed the maximum total finance charge permitted by subparagraph (A) of paragraph (1). Any administrative finance charge that is charged, received, or collected by a holder shall be deemed a finance charge earned on the date of the contract.

(4) If a contract provides for unequal or irregular payments, or payments on other than a monthly basis, the maximum finance charge shall be at the effective rate provided for in paragraph (1), having due regard for the schedule of installments.

(k) The contract may provide that for each installment in default for a period of not less than 10 days the buyer shall pay a delinquency charge in an amount not to exceed in the aggregate 5 percent of the delinquent installment, which amount may be collected only once on any installment regardless of the period during which it remains in default. Payments timely received by the seller under an extension or deferral agreement may not be subject to a delinquency charge unless the charge is permitted by Section 2982.3. The contract may provide for reasonable collection costs and fees in the event of delinquency.

(*l*) Notwithstanding any provision of a contract to the contrary, the buyer may pay at any time before maturity the entire indebtedness evidenced by the contract without penalty. In the event of prepayment in full:

(1) If the finance charge was determined on the precomputed basis, the amount required to prepay the contract shall be the outstanding contract balance as of that date, provided, however, that the buyer shall be entitled to a refund credit in the amount of the unearned portion of the finance charge, except as provided in paragraphs (3) and (4). The amount of the unearned portion of the finance charge shall be at least as great a proportion of the finance charge, including any additional finance charge imposed pursuant to Section 2982.8 or other additional charge imposed because the contract has been extended, deferred, or refinanced, as the sum of the periodic monthly time balances payable more than 15 days after the date of prepayment bears to the sum of all the periodic monthly time balances under the schedule of installments in the contract or, if the contract has been extended, deferred, or refinanced, as so extended, deferred, or refinanced. If the amount of the refund credit is less than one dollar ($1), no refund credit need be made by the holder. Any refund credit may be made in cash or credited to the outstanding obligations of the buyer under the contract.

(2) If the finance charge or a portion thereof was determined on the simple-interest basis, the amount required to prepay the contract shall be the outstanding contract balance as of that date, including any earned finance charges ***that*** are unpaid as of that date and, if applicable, the amount provided in paragraph (3), and provided further that in cases where a finance charge is determined on the 360-day basis, the payments theretofore received will be assumed to have been received on their respective due dates regardless of the actual dates on which the payments were received.

(3) Where the minimum finance charge provided by subparagraph (B) or subparagraph (C) of paragraph (1) of subdivision (j), if either is applicable, is greater than the earned finance charge as of the date of prepayment, the holder shall be additionally entitled to the difference.

(4) The provisions of this subdivision may not impair the right of the seller or the seller's assignee to receive delinquency charges on delinquent installments and reasonable costs and fees as provided in subdivision (k) or extension or deferral agreement charges as provided in Section 2982.3.

(5) Notwithstanding any provision of a contract to the contrary, whenever the indebtedness created by any contract is satisfied prior to its maturity through surrender of the motor vehicle, repossession of the motor vehicle, redemption of the motor vehicle after repossession, or any judgment, the outstanding obligation of the buyer shall be determined as provided in paragraph (1) or (2). Notwithstanding, the buyer's outstanding obligation shall be computed by the holder as of the date the holder recovers the value of the motor vehicle through disposition thereof or judgment is entered or, if the holder elects to keep the motor vehicle in satisfaction of the buyer's indebtedness, as of the date the holder takes possession of the motor vehicle.

(m) Notwithstanding any other provision of this chapter to the contrary, any information required to be disclosed in a conditional sale contract under this chapter may be disclosed in any manner, method, or terminology required or permitted under Regulation Z, as in effect at the time that disclosure is made, except that permitted by paragraph (2) of subdivision (c) of Section 226.18 of Regulation Z, provided that all of the requirements and limitations set forth in subdivision (a) of this section are satisfied. This chapter does not prohibit the disclosure in that contract of additional information required or permitted under Regulation Z, as in effect at the time that disclosure is made.

(n) If the seller imposes a fee for document preparation, the contract shall contain a disclosure that the fee is not a governmental fee.

(o) A seller may not impose an application fee for a transaction governed by this chapter.

(p) The seller or holder may charge and collect a fee not to exceed fifteen dollars ($15) for the return by a depository institution of a dishonored check, negotiated order of withdrawal, or share draft issued in connection with the contract, if the contract so provides or if the contract contains a generalized statement that the buyer may be liable for collection costs incurred in connection with the contract.

(q) The contract shall disclose on its face, by printing the word "new" or "used" within a box outlined in red, that is not smaller than one-half inch high and one-half inch wide, whether the vehicle is sold as a new vehicle, as defined in Section 430 of the Vehicle Code, or ***as*** a used vehicle, as defined in Section 665 of the Vehicle Code.

(r) The contract shall contain a notice with a heading in at least 12-point bold type and the text in at

THERE IS NO COOLING OFF PERIOD UNLESS YOU OBTAIN A CONTRACT CANCELLATION OPTION.

California law does not provide for a "cooling off" or other cancellation period for vehicle sales. Therefore, you cannot later cancel this contract simply because you change your mind, decide the vehicle costs too much, or wish you had acquired a different vehicle. After you sign below, you may only cancel this contract with the agreement of the seller or for legal cause, such as fraud.

However, California law does require a seller to offer a 2-day contract cancellation option on used vehicles with a purchase price of less than $40,000, subject to certain statutory conditions. This contract cancellation option requirement does not apply to the sale of a motorcycle or an off-highway motor vehicle subject to identification under California law. See the vehicle contract cancellation option agreement for details.

(Amended Sec. 3, Ch. 128, Stats. 2005. Effective January 1, 2005. Operative July 1, 2006.)

2982.1. It shall be unlawful for any seller to induce or attempt to induce any person to enter into a contract subject to this chapter by offering a rebate, discount, commission, or other consideration, contingent upon the happening of a future event, on the condition that the buyer either sells, or gives information or assistance for the purpose of leading to a sale by the seller of, the same or related goods.

(Added Ch. 452, Stats. 1968. Effective November 13, 1968.)

2982.2. ***Prior to the execution of a conditional sale contract, the seller shall provide to a buyer, and obtain the buyer's signature on, a written disclosure that sets forth the following information:***

(a) (1) A description and the price of each item sold if the contract includes a charge for the item.

(2) Paragraph (1) applies to each item in the following categories:

(A) A service contract.

(B) An insurance product.

(C) A debt cancellation agreement.

(D) A theft deterrent device.

(E) A surface protection product.

(F) A vehicle contract cancellation option agreement.

(b) The sum of all of the charges disclosed under subdivision (a), labeled "total."

(c) The amount that would be calculated under the contract as the regular installment payment if charges for the items disclosed pursuant to subdivision (a) are not included in the contract. The amount disclosed pursuant to this subdivision shall be labeled "Installment Payment EXCLUDING Listed Items."

(d) The amount that would be calculated under the contract as the regular installment payment if charges for the items disclosed under subdivision (a) are included in the contract. The amount disclosed pursuant to this subdivision shall be labeled "Installment Payment INCLUDING Listed Items."

(e) The disclosures required under this section shall be in at least 10-point type and shall be contained in a document that is separate from the conditional sale contract and a purchase order.

(Added Sec. 4, Ch. 128, Stats. 2005. Effective January 1, 2006. Operative July 1, 2006)

2982.3. (a) The holder of a conditional sale contract may, upon agreement with the buyer, extend the scheduled due date or defer the scheduled payment of all or of any part of any installment or installments payable thereunder. No charge shall be made for any such extension or deferment unless the agreement for such extension or deferment is in writing and signed by the parties thereto. However, the seller or holder may, as an adjunct to or to assist in efforts to collect one or more delinquent installments on the contract, advise one or more obligors on the contract, either in writing or orally, that the due date for one or more installments under the contract shall be extended, with no charge being made for such extension other than any applicable late charge provided for in the contract.

(b) Where the contract includes a finance charge determined on the precomputed basis, the holder may charge and contract for the payment of an extension or deferral agreement charge by the buyer and collect and receive the same, but such charge may not exceed an amount equal to 1 percent per month simple interest on the amount of the installment or installments, or part thereof, extended or deferred for the period of extension or deferral. Such period shall not exceed the period from the date when such extended or deferred installment or installments, or part thereof, would have been payable in the absence of such extension or deferral to the date when such installment or installments, or part thereof, are made payable under the agreement of extension or deferment; except that a minimum charge of one dollar ($1) for the period of extension or deferral may be made in any case where the extension or deferral agreement charge, when computed at such rate, amounts to less than one dollar ($1).

(c) Where the contract includes a finance charge determined on the simple-interest basis, the holder may charge and contract for the payment of an extension or deferral agreement charge by the buyer and collect and receive the same, but the charge for the extension or deferral agreement may not exceed the lesser of twenty-five dollars ($25) or 10 percent of the then outstanding principal balance of the contract. Such charge shall be in addition to any finance charges which accrue because such extended or deferred payments are received at a time other than as originally scheduled.

(Amended Ch. 448, Stats. 1987. Effective January 1, 1988.)

2982.5. (a) This chapter may not be deemed to affect a loan, or the security therefor, between a purchaser of a motor vehicle and a supervised financial organization, other than the seller of the motor vehicle, all or a portion of which loan is used in connection with the purchase of a motor vehicle. As used in this chapter, "supervised financial organization" means a person organized, chartered, or holding a license or authorization certificate under a law of this state or the United States to make loans and subject to supervision by an official or agency of this state or the United States.

(b) This chapter may not be deemed to prohibit the seller's assisting the buyer in obtaining a loan upon any security from any third party to be used as a part or all of the downpayment or any other payment on a conditional sale contract or purchase order; provided that the conditional sale contract sets forth on its face the amount of the loan, the finance charge, the total thereof, the number of installments scheduled to repay the loan and the amount of each installment, that the buyer may be required to pledge security for the loan, which security shall be mutually agreed to by the buyer and the lender and notice to the buyer in at least 8-point type that he or she is obligated for the installment payments on both the conditional sale contract and the loan. The seller may not provide any security or other guarantee of payment on the loan, nor shall the seller receive any commission or other remuneration for assisting the buyer to obtain the loan. If the buyer obligates himself or herself to purchase, or receives possession of, the motor vehicle prior to securing the loan, and if the buyer upon appropriate application for the loan is unable to secure the loan, on the conditions stated in the conditional sale contract, the conditional sale contract or purchase order shall be deemed rescinded and all consideration thereupon shall be returned by the respective parties without demand.

(c) The proceeds of any loan payable to the seller after the date of the contract but prior to the due date of the second payment otherwise scheduled thereunder may not be subject to a finance charge and the amount thereof shall be disclosed pursuant to subparagraph (D) of paragraph (6) of subdivision (a) of Section 2982.

(d) This chapter may not be deemed to prohibit the seller's assisting the buyer in obtaining a loan from any third party to be used to pay for the full purchase price, or any part thereof, of a motor vehicle, if each of the following provisions applies:

(1) The loan may be upon any security, but except as provided in paragraph (2), the loan may not be secured in whole or in part by a lien on real property. Any lien on real property taken in violation of this section shall be void and unenforceable.

(2) A lien on real property may be taken to secure a loan of seven thousand five hundred dollars ($7,500) or more used to pay the full purchase price, or any part thereof, of a recreational vehicle, as defined in Section 18010 of the Health and Safety Code, which is not less than 20 feet in length.

(3) The provisions of Sections 2983.2, 2983.3, and 2984.4 shall apply to the loan, but may not authorize the lender or the lender's successor in interest to charge for any costs, fees, or expenses or to obtain any other benefit which the lender is prohibited from charging or obtaining under any regulatory law applicable to the lender. Notwithstanding this paragraph, the provisions of Sections 2983.2 and 2983.3 may not apply to a loan made by a lender licensed under Division 9 (commencing with Section 22000) or Division 10 (commencing with Section 24000) of the Financial Code.

(4) The lender or the lender's successor in interest shall be subject to all claims and defenses which the buyer could assert against the seller, but liability may not exceed the amount of the loan.

(5) If the buyer becomes obligated to purchase, or receives possession of, the motor vehicle prior to obtaining the loan, the agreement between the buyer and the seller shall set forth on its face the amount of the loan, the finance charge, the total thereof, the number of installments scheduled to repay the loan and the amount of each installment, that the buyer may be required to pledge security for the loan, which security must be mutually agreed to by the buyer and the lender, and notice to the buyer in at least 8-point type that the buyer is obligated for the installment payments on the loan and for any payments which may be due on the agreement between the buyer and the seller. The seller may not provide any security or other guarantee of payment on the loan, and the seller may not receive any commission or other remuneration for assisting the buyer to obtain the loan. If the buyer upon proper application for the loan is unable to obtain the loan, on the condition stated in the agreement between the buyer and the seller, the agreement shall be deemed rescinded and all consideration thereupon shall be returned by the respective parties without demand.

(6) Any waiver by the buyer of the provisions of this section shall be void and unenforceable.

This subdivision does not apply to state or federally chartered banks and savings and loan associations and may not be construed to affect existing law regarding a seller"s assisting a buyer to obtain a loan from a bank or savings and loan association or any loan obtained by the buyer from those lenders.

(Amended Sec. 2, Ch. 37, Stats. 2003. Effective January 1, 2004.)

2982.7. (a) Any payment made by a buyer to a seller pending execution of a conditional sale contract shall be refunded to the buyer in the event the conditional sale contract is not executed.

(b) In the event of breach by the seller of a conditional sale contract or purchase order where the buyer leaves his motor vehicle with the seller as downpayment and such motor vehicle is not returned by the seller to the buyer for whatever reason, the buyer may recover from the seller either the fair market value of the motor vehicle left as a downpayment or its value as stated in the contract or purchase order, whichever is greater. The recovery shall be tendered to the buyer within five business days after the breach.

(c) The remedies of the buyer provided for in subdivision (b) are nonexclusive and cumulative and shall not preclude the buyer from pursuing any other remedy which he may have under any other provision of law.

(Amended Ch. 1285, Stats. 1976. Effective January 1, 1977.)

2982.8. (a) If a buyer is obligated under the terms of the conditional sale contract to maintain insurance on the vehicle and subsequent to the execution of the contract the buyer either fails to maintain or requests the holder to procure the insurance, any amounts advanced by the holder to procure the insurance may be the subject of finance charges from the date of advance as provided in subdivision (e).

(b) These amounts shall be secured as provided in the contract and permitted by Section 2984.2 if the holder notifies the buyer in writing of his or her option to repay those amounts in any one of the following ways:

(1) Full payment within 10 days from the date of giving or mailing the notice.

(2) Full amortization during the term of the insurance.

(3) If offered by the holder, full amortization after the term of the conditional sale contract, to be payable in installments which do not exceed the average payment allocable to a monthly period under the contract.

(4) If offered by the holder, a combination of the methods described in paragraphs (2) and (3), so that there is some amortization during the term of the insurance, with the remainder of the amortization being accomplished after the term of the conditional sale contract, to be payable in installments which do not exceed the average payment allocable to a monthly period under the original terms of the contract.

(5) If offered by the holder, any other amortization plan.

If the buyer neither pays in full the amounts advanced nor notifies the holder in writing of his or her choice regarding amortization options before the expiration of 10 days from the date of giving or mailing the notice by the holder, the holder may amortize the amounts advanced on a secured basis pursuant to paragraph (2) or, if offered by the holder as an option to the buyer, paragraph (3) or (4).

(c) The written notification described in subdivision (b) shall also set forth the amounts advanced by the holder and, with respect to each amortization plan the amount of the additional finance charge, the sum of the amounts advanced and the additional finance charge, the number of installments required, the amount of each installment and the date for payment of the installments.

In addition, the notice shall contain a statement in contrasting red print in at least 8-point bold type, which reads as follows: "WARNING–IT IS YOUR RESPONSIBILITY UNDER CALIFORNIA LAW TO OBTAIN LIABILITY INSURANCE OR BE SUBJECT TO PENALTIES FOR VIOLATING SECTION 16020 OF THE VEHICLE CODE, WHICH MAY INCLUDE LOSS OF LICENSE OR A FINE. THE INSURANCE ACQUIRED BY THE LIENHOLDER DOES NOT PROVIDE LIABILITY COVERAGE AND DOES NOT SATISFY YOUR RESPONSIBILITY UNDER CALIFORNIA LAW."

(d) If subsequent to the execution of the contract the holder advances amounts for repairs to or preservation of the motor vehicle or preservation of the holder's security interest therein and such advances are occasioned by the buyer's default under the contract, such advances may be the subject of finance charges from the date of advance as provided in subdivision (e) and shall be secured as provided in the contract and permitted by Section 2984.2.

(e) The maximum rate of finance charge which may be imposed on amounts advanced by the holder subsequent to the execution of the contract for insurance, repairs to or preservation of the motor vehicle, or preservation of the holder's security interest therein, shall not exceed the annual percentage rate disclosed pursuant to Section 2982.

(Amended Ch. 1092, Stats. 1988. Effective January 1, 1989.)

2982.9. In the event a buyer obligates himself to purchase, or receive possession of, a motor vehicle pursuant to a contract or purchase order, and the seller knows that the buyer intends to obtain financing from a third party without the assistance of the seller, and the buyer is unable to obtain such financing, the contract or purchase order shall be deemed rescinded and all consideration thereupon shall be returned by the respective parties without demand.

(Added Ch. 1285, Stats. 1976. Effective January 1, 1977.)

2982.10. ***(a) In consideration of the assignment of a conditional sale contract, the seller shall not receive or accept from the assignee any payment or credit based upon any amount collected or received, or to be collected or received, under the contract as a finance charge except to the extent the payment or credit does not exceed the amount that would be calculated in accordance with Regulation Z, whether or not Regulation Z applies to the contract, as the contract's finance charge using, for the purposes of the calculation, an annual percentage rate equal to 2.5 percent for a contract having an original scheduled term of 60 monthly payments or less or 2 percent for a contract having an original scheduled term of more than 60 monthly payments.***

(b) Subdivision (a) does not apply in the following circumstances:

(1) An assignment that is with full recourse or under other terms requiring the seller to bear the entire risk of financial performance of the buyer.

(2) An assignment that is more than six months following the date of the conditional sale contract.

(3) Isolated instances resulting from bona fide errors that would otherwise constitute a violation of subdivision (a) if the seller maintains reasonable procedures to guard against any errors and promptly, upon notice of the error, remits to the assignee any consideration received in excess of that permitted by subdivision (a).

(4) The assignment of a conditional sale contract involving the sale of a motorcycle, as defined in Section 400 of the Vehicle Code.

(5) The assignment of a conditional sale contract involving the sale of an off-highway motor vehicle that is subject to identification under Section 38010 of the Vehicle Code.

(Added Sec. 5, Ch. 128, Stats. 2005. Effective January 1, 2006. Operative July 1, 2006)

2983. If the seller, except as the result of an accidental or bona fide error in computation, violates any provision of Section 2981.9 or of subdivision (a), (j), or (k) of Section 2982, the conditional sale contract shall not be enforceable, except by a bona fide purchaser, assignee or pledgee for value or until after the violation is corrected as provided in Section 2984, and if the violation is not corrected the buyer may recover from the seller the total amount paid, pursuant to the terms of the contract, by the buyer to the seller or his assignee. The amount recoverable for property traded in as all or part of the downpayment shall be equal to the agreed cash value of such property as the value appears on the conditional sale contract or the fair market value of such property as of the time the contract is made, whichever is greater.

(Amended Ch. 1075, Stats. 1981. Operative April 1, 1982.)

2983.1. If the seller or holder of a conditional sale contract, except as the result of an accidental or bona fide error of computation, violates any provision of subdivision (l) of Section 2982, the buyer may recover from such person three times the amount of any finance charge paid to that person.

If a holder acquires a conditional sale contract without actual knowledge of the violation by the seller of Section 2981.9 or of subdivision (a), (j), or (k) of Section 2982, the contract shall be valid and enforceable by such holder except (unless the violation is corrected as provided in Section 2984) the buyer is excused from payment of the unpaid finance charge.

If a holder acquires a conditional sale contract with knowledge of such violation of Section 2981.9 or of subdivision (a), (j), or (k) of Section 2982, the conditional sale contract shall not be enforceable except by a bona fide purchaser, assignee or pledgee for value or unless the violation is corrected as provided in Section 2984, and if the violation is not corrected the buyer may recover from the person to whom payment was made the amounts specified in Section 2983.

When a conditional sale contract is not enforceable under Section 2983 or 2983.1, the buyer may elect to retain the motor vehicle and continue the contract in force or may, with reasonable diligence, elect to rescind the contract and return the motor vehicle. The value of the motor vehicle so returned shall be credited as restitution by the buyer without any decrease which results from the passage of time in the cash price of the motor vehicle as such price appears on the conditional sale contract.

(Amended Ch. 1075, Stats. 1981. Operative April 1, 1982.)

2983.2. (a) Except where the motor vehicle has been seized as described in paragraph (6) of subdivision (b) of Section 2983.3, any provision in any conditional sale contract for the sale of a motor vehicle to the contrary notwithstanding, at least 15 days' written notice of intent to dispose of a repossessed or surrendered motor vehicle shall be given to all persons liable on the contract. The notice shall be personally served or shall be sent by certified mail, return receipt requested, or first-class mail, postage prepaid, directed to the last known address of the persons liable on the contract. If those persons are married to each other, and, according to the most recent records of the seller or holder of the contract, reside at the same address, one notice addressed to both persons at that address is sufficient. Except as otherwise provided in Section 2983.8, those persons shall be liable for any deficiency after disposition of the repossessed or surrendered motor vehicle only if the notice prescribed by this section is given within 60 days of repossession or surrender and does all of the following:

(1) Sets forth that those persons shall have a right to redeem the motor vehicle by paying in full the indebtedness evidenced by the contract until the expiration of 15 days from the date of giving or mailing the notice and provides an itemization of the contract balance and of any delinquency, collection or repossession costs and fees and sets forth the computation or estimate of the amount of any credit for unearned finance charges or canceled insurance as of the date of the notice.

(2) States either that there is a conditional right to reinstate the contract until the expiration of 15 days from the date of giving or mailing the notice and all the conditions precedent thereto or that there is no right of reinstatement and provides a statement of reasons therefor.

(3) States that, upon written request, the seller or holder shall extend for an additional 10 days the redemption period or, if entitled to the conditional right of reinstatement, both the redemption and reinstatement periods. The seller or holder shall provide the proper form for applying for the extensions with the substance of the form being limited to the extension request, spaces for the requesting party to sign and date the form, and instructions that it must be personally served or sent by certified or registered mail, return receipt requested, to a person or office and address designated by the seller or holder and received before the expiration of the initial redemption and reinstatement periods.

(4) Discloses the place at which the motor vehicle will be returned to those persons upon redemption or reinstatement.

(5) Designates the name and address of the person or office to whom payment shall be made.

(6) States the seller's or holder's intent to dispose of the motor vehicle upon the expiration of 15 days from the date of giving or mailing the notice, or if by mail and either the place of deposit in the mail or the place of address is outside of this state, the period shall be 20 days instead of 15 days, and further, that upon written request to extend the redemption period and any applicable reinstatement period for 10 days, the seller or holder shall without further notice extend the period accordingly.

(7) Informs those persons that upon written request, the seller or holder will furnish a written accounting regarding the disposition of the motor vehicle as provided for in subdivision (b). The seller or holder shall advise them that this request must be personally served or sent first-class mail, postage prepaid, or certified mail, return receipt requested, to a person or office and address designated by the seller or holder.

(8) Includes notice, in at least 10-point bold type if the notice is printed, reading as follows: "NOTICE. YOU MAY BE SUBJECT TO SUIT AND LIABILITY IF THE AMOUNT OBTAINED UPON DISPOSITION OF THE VEHICLE IS INSUFFICIENT TO PAY THE CONTRACT BALANCE AND ANY OTHER AMOUNTS DUE."

(9) Informs those persons that upon the disposition of the motor vehicle, they will be liable for the deficiency balance plus interest at the contract rate, or at the legal rate of interest pursuant to Section 3289 if there is no contract rate of interest, from the date of disposition of the motor vehicle to the date of entry of judgment.

The notice prescribed by this section shall not affect the discretion of the court to strike out an unconscionable interest rate in the contract for which the notice is required, nor affect the court in its determination of whether the rate is unconscionable.

(b) Unless automatically provided to the buyer within 45 days after the disposition of the motor vehicle, the seller or holder shall provide to any person liable on the contract within 45 days after their written request, if the request is made within one year after the disposition, a written accounting regarding the disposition. The accounting shall itemize:

(1) The gross proceeds of the disposition.

(2) The reasonable and necessary expenses incurred for retaking, holding, preparing for and conducting the sale and to the extent provided for in the agreement and not prohibited by law, reasonable attorney fees and legal expenses incurred by the seller or holder in retaking the motor vehicle from any person not a party to the contract.

(3) The satisfaction of indebtedness secured by any subordinate lien or encumbrance on the motor vehicle if written notification of demand therefor is received before distribution of the proceeds is completed. If requested by the seller or holder, the holder of a subordinate lien or encumbrance must seasonably furnish reasonable proof of its interest, and unless it does so, the seller or holder need not comply with its demand.

(c) In all sales which result in a surplus, the seller or holder shall furnish an accounting as provided in subdivision (b) whether or not requested by the buyer. Any surplus shall be returned to the buyer within 45 days after the sale is conducted.

(d) This section shall not apply to a loan made by a lender licensed under Division 9 (commencing with Section 22000) or Division 10 (commencing with Section 24000) of the Financial Code.

(Amended Ch. 1, Sec. 313, Stats. 1996. Effective January 1, 1997.)

2983.3. (a) In the absence of default in the performance of any of the buyer's obligations under the contract, the seller or holder may not accelerate the maturity of any part or all of the amount due thereunder or repossess the motor vehicle.

(b) If after default by the buyer, the seller or holder repossesses or voluntarily accepts surrender of the motor vehicle, any person liable on the contract shall have a right to reinstate the contract and the seller or holder shall not accelerate the maturity of any part or all of the contract prior to expiration of the right to reinstate, unless the seller or holder reasonably and in good faith determines that any of the following has occurred:

(1) The buyer or any other person liable on the contract by omission or commission intentionally provided false or misleading information of material importance on his or her credit application.

(2) The buyer, any other person liable on the contract, or any permissive user in possession of the motor vehicle, in order to avoid repossession has concealed the motor vehicle or removed it from the state.

(3) The buyer, any other person liable on the contract, or any permissive user in possession of the motor vehicle, has committed or threatens to commit acts of destruction, or has failed to take care of the motor vehicle in a reasonable manner, so that the motor vehicle has become substantially impaired in value, or the buyer, any other person liable on the contract, or any nonoccasional permissive user in possession of the motor vehicle has failed to take care of the motor vehicle in a reasonable manner, so that the motor vehicle may become substantially impaired in value.

(4) The buyer or any other person liable on the contract has committed, attempted to commit, or threatened to commit criminal acts of violence or bodily harm against an agent, employee, or officer of the seller or holder in connection with the seller's or holder's repossession of or attempt to repossess the motor vehicle.

(5) The buyer has knowingly used the motor vehicle, or has knowingly permitted it to be used, in connection with the commission of a criminal offense, other than an infraction, as a consequence of which the motor vehicle has been seized by a federal, state, or local agency or authority pursuant to federal, state, or local law.

(6) The motor vehicle has been seized by a federal, state, or local public agency or authority pursuant to (A) Section 1324 of Title 8 of the United States Code or Part 274 of Title 8 of the Code of Federal Regulations, (B) Section 881 of Title 21 of the United States Code or Part 9 of Title 28 of the Code of Federal Regulations, or (C) other federal, state, or local law, including regulations, and, pursuant to that other law, the seizing authority, as a precondition to the return of the motor vehicle to the seller or holder, prohibits the return of the motor vehicle to the buyer or other person liable on the contract or any third person claiming the motor vehicle by or through them or otherwise effects or requires the termination of the property rights in the motor vehicle of the buyer or other person liable on the contract or claimants by or through them.

(c) Exercise of the right to reinstate the contract shall be limited to once in any 12-month period and twice during the term of the contract.

(d) The provisions of this subdivision cover the method by which a contract shall be reinstated with respect to curing events of default which were a ground for repossession or occurred subsequent to repossession:

(1) Where the default is the result of the buyer's failure to make any payment due under the contract, the buyer or any other person liable on the contract shall make the defaulted payments and pay any applicable delinquency charges.

(2) Where the default is the result of the buyer's failure to keep and maintain the motor vehicle free from all encumbrances and liens of every kind, the buyer or any other person liable on the contract shall either satisfy all encumbrances and liens or, in the event the seller or holder satisfies the encumbrances and liens, the buyer or any other person liable on the contract shall reimburse the seller or holder for all reasonable costs and expenses incurred therefor.

(3) Where the default is the result of the buyer's failure to keep and maintain insurance on the motor vehicle, the buyer or any other person liable on the contract shall either obtain the insurance or, in the event the seller or holder has obtained the insurance, the buyer or any other person liable on the contract shall reimburse the seller or holder for premiums paid and all reasonable costs and expenses, including, but not limited to, any finance charge in connection with the premiums permitted by Section 2982.8, incurred therefor.

(4) Where the default is the result of the buyer's failure to perform any other obligation under the contract, unless the seller or holder has made a good faith determination that the default is so substantial as to be incurable, the buyer or any other person liable on the contract shall either cure the default or, if the seller or holder has performed the obligation, reimburse the seller or holder for all reasonable costs and expenses incurred in connection therewith.

(5) Additionally, the buyer or any other person liable on the contract shall, in all cases, reimburse the seller or holder for all reasonable and necessary collection and repossession costs and fees incurred, including attorney's fees and legal expenses expended in retaking and holding the vehicle.

(e) If the seller or holder denies the right to reinstatement under subdivision (b) or paragraph (4) of subdivision (d), the seller or holder shall have the burden of proof that the denial was justified in that it was reasonable and made in good faith. If the seller or holder fails to sustain the burden of proof, the seller or holder shall not be entitled to a deficiency, but it shall not be presumed that the buyer is entitled to damages by reason of the failure of the seller or holder to sustain the burden of proof.

(f) This section shall not apply to a loan made by a lender licensed under Division 9 (commencing with Section 22000) or Division 10 (commencing with Section 24000) of the Financial Code.

(Amended Ch. 448, Stats. 1987. Effective January 1, 1988.)

2983.4. Reasonable attorney's fees and costs shall be awarded to the prevailing party in any action on a contract or purchase order subject to the provisions of this chapter regardless of whether the action is instituted by the seller, holder or buyer. Where the defendant alleges in his answer that he tendered to the plaintiff the full amount to which he was entitled, and thereupon deposits in court, for the plaintiff, the amount so tendered, and the allegation is found to be true, then the defendant is deemed to be a prevailing party within the meaning of this section.

(Amended Ch. 1285, Stats. 1976. Effective January 1, 1977.)

2983.5. An assignee of the seller's rights is subject to all equities and defenses of the buyer against the seller, notwithstanding an agreement to the contrary, but the assignee's liability may not exceed the amount of the debt owing to the assignee at the time of the assignment.

(b) The assignee shall have recourse against the seller to the extent of any liability incurred by the assignee pursuant to this section regardless of whether the assignment was with or without recourse.

(Amended Ch. 66, Stats. 1975. Effective January 1, 1976.)

2983.6. Any person who shall willfully violate any provision of this chapter shall be guilty of a misdemeanor.

(Added Ch. 1338, Stats. 1968. Effective November 13, 1968.)

2983.7. No conditional sale contract shall contain any provision by which:

(a) The buyer agrees not to assert against the seller a claim or defense arising out of the sale or agrees not to assert against an assignee such a claim or defense.

(b) A power of attorney is given to confess judgment in this state, or an assignment of wages is given; provided, that nothing herein contained shall prohibit the giving of an assignment of wages contained in a separate instrument pursuant to Section 300 of the Labor Code.

(c) The buyer waives any right of action against the seller or holder of the contract or other person acting on his behalf, for any illegal act committed in the collection of payments under the contract or in the repossession of the motor vehicle.

(d) The buyer executes a power of attorney appointing the seller or holder of the contract, or other person acting on his behalf, as the buyer's agent in the collection of payments under the contract or in the repossession of the motor vehicle.

(e) The buyer relieves the seller from liability for any legal remedies which the buyer may have against the seller under the contract or any separate instruments executed in connection therewith.

(f) The seller or holder of the contract is given the right to commence action on a contract under the provisions of this chapter in a county other than the county in which the contract was in fact signed by the buyer, the county in which the buyer resides at the commencement of the action, the county in which the buyer resided at the time the contract was entered into, or in the county in which the motor vehicle purchased pursuant to such contract is permanently garaged.

(Added Ch. 1288, Stats. 1968. Effective November 13, 1968.)

2983.35. (a) If a creditor has requested a cosigner as a condition of granting credit to any person for the purpose of acquisition of a motor vehicle, the creditor or holder shall give the cosigner a written notice of delinquency prior to the repossession of the motor vehicle if the motor vehicle is to be repossessed pursuant to the motor vehicle credit agreement. The written notice of delinquency shall be personally served or shall be sent by certified mail, return receipt requested, or first-class mail, postage prepaid, directed to the last known address of the cosigner. If the last known address of the buyer and the cosigner are the same, a single written notice of delinquency given to both the borrower and cosigner prior to repossession satisfies the cosigner notice requirement of this section.

(b) A creditor or holder who fails to comply with this section may not recover any costs associated with the repossession of the vehicle from the cosigner.

(c) This section applies to any motor vehicle credit agreement, notwithstanding Section 2982.5.

(d) The following definitions govern the construction of this section.

(1) "Cosigner" means a buyer who executes a motor vehicle credit agreement but does not in fact receive possession of the motor vehicle that is the subject of the agreement.

(2) "Creditor" means a seller or lender described in paragraph (4).

(3) "Holder" means any other person who is entitled to enforce the motor vehicle credit agreement.

(4) "Motor vehicle credit agreement" means any conditional sales contract as defined in Section 2981 and any contract or agreement in which a lender gives value to enable a purchaser to acquire a motor vehicle and in which the lender obtains a security interest in the motor vehicle.

(Added Sec. 2, Ch. 313, Stats. 1996. Effective January 1, 1997.)

2984. Any failure to comply with any provision of this chapter (commencing with Section 2981) may be corrected by the holder, provided, however, that a wilful violation may not be corrected unless it is a violation appearing on the face of the contract and is corrected within 30 days of the execution of the contract or within 20 days of its sale, assignment or pledge, whichever is later, provided that the 20-day period shall commence with the initial sale, assignment or pledge of the contract, and provided that any other violation appearing on the face of the contract may be corrected only within such time periods. A correction which will increase the amount of the contract balance or the amount of any installment as such amounts appear on the conditional sale contract shall not be effective unless the buyer concurs in writing to the correction. If notified in writing by the buyer of such a failure to comply with any provision of this chapter, the correction shall be made within 10 days of notice. Where any provision of a conditional sale contract fails to comply with any provision of this chapter, the correction shall be made by mailing or delivering a corrected copy of the contract to the buyer. Any amount improperly collected by the holder from the buyer shall be credited against the indebtedness evidenced by the contract or returned to the buyer. A violation corrected as provided in this section shall not be the basis of any recovery by the buyer or affect the enforceability of the contract by the holder and shall not be deemed to be a substantive change in the agreement of the parties.

(Amended Ch. 838, Stats. 1963.)

2984.1. Every conditional sale contract shall contain a statement in contrasting red print in at least 8-point bold type which shall satisfy the requirements of Section 5604 of the Vehicle Code and be signed or initialed by the buyer, as follows: THE MINIMUM PUBLIC LIABILITY INSURANCE LIMITS PROVIDED IN LAW MUST BE MET BY EVERY PERSON WHO PURCHASES A VEHICLE. IF YOU ARE UNSURE WHETHER OR NOT YOUR CURRENT INSURANCE POLICY WILL COVER YOUR NEWLY ACQUIRED VEHICLE IN THE EVENT OF AN ACCIDENT, YOU SHOULD CONTACT YOUR INSURANCE AGENT.

WARNING: YOUR PRESENT POLICY MAY NOT COVER COLLISION DAMAGE OR MAY NOT PROVIDE FOR FULL REPLACEMENT COSTS FOR THE VEHICLE BEING PURCHASED. IF YOU DO NOT HAVE FULL COVERAGE, SUPPLEMENTAL COVERAGE FOR COLLISION DAMAGE MAY BE AVAILABLE TO YOU THROUGH YOUR INSURANCE AGENT OR THROUGH THE SELLING DEALER. HOWEVER, UNLESS OTHERWISE SPECIFIED, THE COVERAGE YOU OBTAIN THROUGH THE DEALER PROTECTS ONLY THE DEALER, USUALLY UP TO THE AMOUNT OF THE UNPAID BALANCE REMAINING AFTER THE VEHICLE HAS BEEN REPOSSESSED AND SOLD.

FOR ADVICE ON FULL COVERAGE THAT WILL PROTECT YOU IN THE EVENT OF LOSS OR DAMAGE TO YOUR VEHICLE, YOU SHOULD CONTACT YOUR INSURANCE AGENT.

THE BUYER SHALL SIGN TO ACKNOWLEDGE THAT HE/SHE UNDERSTANDS THESE PUBLIC LIABILITY TERMS AND CONDITIONS.

No person shall print for use as a sales contract form, any form which does not comply with this section.

(Amended Ch. 177, Stats. 1988. Effective January 1, 1989.)

2984.2. (a) No conditional sale contract, and no agreement between a seller and a buyer made in connection with a conditional sale contract, may provide for the inclusion of title to or a lien upon any property other than the following:

(1) The motor vehicle which is the subject matter of the sale, including any replacement of that motor vehicle, or accessories, accessions, or replacement of those accessories or accessions, or proceeds thereof.

(2) The proceeds of any insurance policies covering the motor vehicle which are required by the seller or the returned premiums of any such policies if the premiums for such policies are included in the amount financed.

(3) The proceeds of any credit insurance policies which the buyer purchases in connection with the motor vehicle conditional sale contract or the returned premiums of any such policies if the premiums for such policies are included in the amount financed; or

(4) The proceeds and returned price of any service contract if the cost of such contract is included in the amount financed.

(b) Subdivision (a) shall not apply to any agreement which meets the requirements of subdivision (b) of Section 2982.5 and otherwise complies with this chapter, nor, with respect to a mobilehome sold prior to July 1, 1981, to any agreement whereby a security interest is taken in real property on which the mobilehome is installed on a foundation system pursuant to Section 18551 of the Health and Safety Code.

(c) A provision in violation of this section shall be void.

(Amended Ch. 1043, Stats. 1987. Effective January 1, 1988.)

2984.3. Any acknowledgment by the buyer of delivery of a copy of a conditional sale contract or purchase order and any vehicle purchase proposal and any credit statement that the seller has required or requested the buyer to sign, and that he or she has signed, during the contract negotiations, shall be printed or written in size equal to at least 10-point boldface type and, if contained in the contract, shall appear directly above the space reserved for the buyer's signature or adjacent to any other notices required by law to be placed immediately above the signature space. The buyer's written acknowledgment, conforming to the requirements of this section, of delivery of a completely filled-in copy of the contract, and a copy of the other documents shall be a rebuttable presumption of delivery in any action or proceeding by or against a third party without knowledge to the contrary when he or she acquired his or her interest in the contract. If the third party furnishes the buyer a copy of the documents, or a notice containing the disclosures identified in subdivision (a) of Section 2982, and stating that the buyer shall notify the third party in writing within 30 days if a copy of the documents was not furnished, and that notification is not given, it shall be conclusively presumed in favor of the third party that copies of the documents were furnished as required by this chapter.

(Amended Ch. 146, Stats. 1994. Effective January 1, 1995.)

2984.4. (a) An action on a contract or purchase order under this chapter shall be tried in the superior court in the county where the contract or purchase order was in fact signed by the buyer, where the buyer resided at the time the contract or purchase order was entered into, where the buyer resides at the commencement of the action, or where the motor vehicle purchased pursuant to the contract or purchase order is permanently garaged.

In any action involving multiple claims, or causes of action, venue shall lie in those courts if there is at least one claim or cause of action arising from a contract subject to this chapter.

(b) In the superior court designated as the proper court in subdivision (a), the proper court location for trial of an action under this chapter is the location where the court tries that type of action that is nearest or most accessible to where the contract, conditional sale contract, or purchase order was in fact signed by the buyer, where the buyer resided at the time the contract, conditional sale contract, or purchase order was entered into, where the buyer resides at the commencement of the action, or where the motor vehicle purchased pursuant to the contract is permanently garaged. Otherwise, any location of the superior court designated as the proper superior court in subdivision (a) is the proper court location for the trial of the action. The court may specify by local rule the nearest or most accessible court location where the court tries that type of case.

(c) In any action subject to this section, concurrently with the filing of the complaint, the plaintiff shall file an affidavit stating facts showing that the action has been commenced in a superior court and court location described in this section as a proper place for the trial of the action. Those facts may be stated in a verified complaint and shall not be stated on information or belief. When that affidavit is filed with the complaint, a copy shall be served with the summons. If a plaintiff fails to file the affidavit or state facts in a verified complaint required by this section, no further proceedings may occur, but the court shall, upon its own motion or upon motion of any party, dismiss the action without prejudice. The court may, on terms that are just, permit the affidavit to be filed subsequent to the filing of the complaint and a copy of the affidavit shall be served on the defendant. The time to answer or otherwise plead shall date from that service.

(Amended Sec. 2, Ch. 806, Stats. 2002. Effective January 1, 2003.)

2984.5. (a) A seller shall maintain the following documents for at least seven years or the length of the conditional sales contract, whichever is longer:

(1) A copy of each buyer's conditional sales contract.

(2) Any documents relied upon by the seller to determine a buyer's creditworthiness, including, but not limited to, any consumer credit report, as defined in Section 1785.3, or any other document containing a buyer's credit score, as defined in Section 1785.15.1.

(3) If the conditional sales contract is sold, assigned, or otherwise transferred, a copy of the terms of that sale, assignment, or transfer.

(b) A seller that unlawfully fails to comply with a court order to produce the documents described in subdivision (a) shall be liable in an action brought by the Attorney General for a civil penalty of five thousand dollars ($5,000) per violation. The penalties provided by this section are in addition to all rights and remedies that are otherwise available under law.

(Added Sec. 1, Ch. 59, Stats. 2003. Effective January 1, 2004.)

Moscone Vehicle Leasing Act

2985.7. (a) "Motor vehicle" means any vehicle required to be registered under the Vehicle Code. Motor vehicle does not include any trailer which is sold in conjunction with a vessel.

(b) "Lessor" includes "bailor" and is a person who is engaged in the business of leasing, offering to lease or arranging the lease of a motor vehicle under a lease contract.

For the purpose of this subdivision, "person" means an individual, partnership, corporation, limited liability company, estate, trust, cooperative, association or any other legal entity.

(c) "Lessee" includes "bailee" and is a natural person who leases, offers to lease or is offered the lease of a motor vehicle under a lease contract.

(d) "Lease contract" means any contract for or in contemplation of the lease or bailment for the use of a motor vehicle, and the purchase of services incidental thereto, by a natural person for a term exceeding four months, primarily for personal, family or household purposes, whether or not it is agreed that the lessee bear the risk of the motor vehicle's depreciation. Lease contract does not include a lease for agricultural, business or commercial purposes, or to a government or governmental agency or instrumentality.

(e) "Regulation M" means any rule, regulation, or interpretation promulgated by the Board of Governors of the Federal Reserve System under the federal Consumer Leasing Act (15 U.S.C. Secs. 1667-1667e), and any interpretation or approval issued by an official or employee of the Federal Reserve System duly authorized by the board to issue such interpretations or approvals.

(f) "Constant yield method" means the following:

(1) In the case of a periodic payment lease, the method of determining the rent charge portion of each base payment in which the rent charge for each computational period is earned in advance by multiplying the constant rate implicit in the lease contract times the balance subject to rent charge as it declines during the scheduled lease term. At any time during the scheduled term of a periodic payment lease, the balance subject to rent charge is the difference between the adjusted capitalized cost and the sum of (A) all depreciation and other amortized amounts accrued during the preceding computational periods and (B) the first base periodic payment.

(2) In the case of a single payment lease, the method of determining the periodic earning of rent charges in which the rent charge for each computational period is earned in advance by multiplying the constant rate implicit in the lease contract times the balance subject to rent charge as it increases during the scheduled lease term. At any time during the scheduled term of a single payment lease, the balance subject to rent charge is determined by subtracting from the residual value the total rent charge scheduled to be earned over the term of the lease contract and adding to the difference all rent charges accrued during the preceding computational periods.

(3) Periodic rent charge calculations are based on the assumption that the lessor will receive the lease payments on their exact due dates and that the lease does not end before its scheduled termination date.

(Amended Sec. 3, Ch. 800, Stats. 1997. Effective January 1, 1998.)

2985.8. (a) Every lease contract shall be in writing and the print portion of the contract shall be printed in at least 8-point type and shall contain in a single document all of the agreements of the lessor and lessee with respect to the obligations of each party.

(b) At the top of the lease contract, a title which contains the words "LEASE CONTRACT" or "LEASE AGREEMENT" shall appear in at least 12-point boldface type.

(c) Every lease contract shall disclose all of the following:

(1) All of the information prescribed by Regulation M set forth in the manner required or permitted by Regulation M, whether or not Regulation M applies to the transaction.

(2) A separate statement labeled "Itemization of Gross Capitalized Cost" that shall appear immediately following or directly adjacent to the disclosures required to be segregated by Regulation M. The Itemization of Gross Capitalized Cost shall include all of the following and shall be circumscribed by a line:

(A) The agreed-upon value of the vehicle as equipped at the time of signing the lease.

(B) The agreed-upon value and a description of each accessory and item of optional equipment the lessor agrees to add to the vehicle after signing the lease.

(C) The premium for each policy of insurance.

(D) The amount charged for each service contract.

(E) Any charge for an optional debt cancellation agreement.

(F) Any outstanding prior credit or lease balance.

(G) An itemization by type and agreed-upon value of each good or service included in the gross capitalized cost other than those items included in the disclosures required in subparagraphs (A) to (F), inclusive.

(3) The vehicle identification number of the leased vehicle.

(4) A brief description of each vehicle or other property being traded in and the agreed-upon value thereof if the amount due at the time of signing the lease or upon delivery is paid in whole or in part with a net trade-in allowance or the "Itemization of Gross Capitalized Cost" includes any portion of the outstanding prior credit or lease balance from the trade-in property.

(5) The fee, if any, to be retained by the lessor for document preparation, which fee may not exceed forty-five dollars ($45) and may not be represented as a governmental fee.

(6) The amount of any optional business partnership automation program fee to register or transfer the vehicle, which shall be labeled "Optional DMV Electronic Filing Fee."

(d) Every lease contract shall contain, in at least 8-point boldface type, above the space provided for the lessee's signature and circumscribed by a line, the following notice: "(1) Do not sign this lease before you read it or if it contains any blank spaces to be filled in; (2) You are entitled to a completely filled in copy of this lease; (3) Warning—Unless a charge is included in this lease for public liability or property damage insurance, payment for that coverage is not provided by this lease."

(e) Every lease contract shall contain, in at least 8-point boldface type, on the first page of the contract and circumscribed by a line, the following notice:

"THERE IS NO COOLING OFF PERIOD

California law does not provide for a "cooling off" or other cancellation period for vehicle leases. Therefore, you cannot later cancel this lease simply because you change your mind, decided the vehicle costs too much, or wish you had acquired a different vehicle. You may cancel this lease only with the agreement of the lessor or for legal cause, such as fraud."

(f) Every lease contract shall contain, in at least 8-point boldface type, the following notice: "You have the right to return the vehicle, and receive a refund of any payments made if the credit application is not approved, unless nonapproval results from an incomplete application or from incorrect information provided by you."

(g) The lease contract shall be signed by the lessor and lessee, or their authorized representatives, and an exact copy of the fully executed lease contract shall be provided to the lessee at the time of signing.

(h) No motor vehicle shall be delivered under a lease contract subject to this chapter until the lessor provides to the lessee a fully executed copy of the lease contract.

(i) The lessor may not obtain the signature of the lessee to a contract when it contains blank spaces to be filled in after it has been signed.

(j) If the lease contract contains a provision that holds the lessee liable for the difference between (1) the adjusted capitalized cost disclosed in the lease contract reduced by the amounts described in subparagraph (A) of paragraph (5) of subdivision (b) of Section 2987 and (2) the settlement proceeds of the lessee's required insurance and deductible in the event of theft or damage to the vehicle that results in a total loss, the lease contract shall contain the following notice in at least 8-point boldface type on the first page of the contract:

"GAP LIABILITY NOTICE

In the event of theft or damage to the vehicle that results in a total loss, there may be a GAP between the amount due upon early termination and the proceeds of your insurance settlement and deductible. THIS LEASE PROVIDES THAT YOU ARE LIABLE FOR THE GAP AMOUNT. Optional coverage for the GAP amount may be offered for an additional price."

(Amended Sec. 1, Ch. 615, Stats. 2004. Effective January 1, 2005.)

2985.9. The following documents and agreements are not required to be contained in a lease contract:

(a) An "express warranty," as that term is defined in paragraph (1) of subdivision (a) of Section 1791.2, whether it relates to the sale or lease of a consumer good.

(b) Titling and transfer documents utilized to register, title, or transfer ownership of vehicles described in the lease contract with government registration authorities.

(c) Insurance policies, service contracts, and optional debt cancellation agreements.

(d) Documents that memorialize the sale or lease of goods or services, relating to the leased vehicle, between the provider of those goods or services and lessee that are included in the gross capitalized cost of the lease and separately itemized in the "Itemization of Gross Capitalized Cost."

(Added Sec. 3, Ch. 287, Stats. 2001. Effective January 1, 2002.)

2985.71. (a) Any solicitation to enter into a lease contract that includes any of the following items shall contain the disclosures described in subdivision (b):

(1) The amount of any payment.

(2) A statement of any capitalized cost reduction or other payment required prior to or at consummation or by delivery, if delivery occurs after consummation.

(3) A statement that no capitalized cost reduction or other payment is required prior to or at consummation or by delivery, if delivery occurs after consummation.

(b) A solicitation to enter into a lease contract that includes any item listed in subdivision (a) shall also clearly and conspicuously state all of the following items:

(1) All of the disclosures prescribed by Regulation M set forth in the manner required or permitted by Regulation M, whether or not Regulation M applies to the transaction.

(2) The mileage limit after which mileage charges may accrue and the charge per mile for mileage in excess of the stated mileage limit.

(3) The statement "Plus tax and license" or a substantially similar statement, if amounts due for use tax, license fees, and registration fees are not included in the payments.

(c) No solicitation to aid, promote, or assist directly or indirectly any lease contract may state that a specific lease of any motor vehicle at specific amounts or terms is available unless the lessor usually and customarily leases or will lease that motor vehicle at those amounts or terms.

(d) A failure to comply with the provisions of this section shall not affect the validity of the leasing contract. No owner or employee of any entity, other than the lessor, that serves as a medium in which a lease solicitation appears or through which a lease solicitation is disseminated, shall be liable under this section.

(Repealed Sec. 4 and Added Sec. 5, Ch. 800, Stats. 1997. Effective January 1, 1998.)

2986.3. No lease contract shall contain any provision by which:

(a) A power of attorney is given to confess judgment in this state, or an assignment of wages is given; provided that nothing herein contained shall prohibit the giving of an assignment of wages contained in a separate instrument pursuant to Section 300 of the Labor Code.

(b) The lessee waives any right of action against the lessor or holder of the contract or other person acting on his or her behalf for any illegal act committed in the collection of payments under the contract or in the repossession of the motor vehicle.

(c) The lessee relieves the lessor from liability for any legal remedies which the lessee may have against the lessor under the contract or any separate instruments executed in connection therewith.

(d) The lessor or holder of the contract is given the right to commence action on a contract under the provisions of this chapter in a county other than the county in which the contract was in fact signed by the lessee, the county in which the lessee resides at the commencement of the action, the county in which the lessee resided at the time the contract was entered into or in the county in which the motor vehicle leased pursuant to such contract is permanently garaged.

(Amended Sec. 9, Ch. 800, Stats. 1997. Effective January 1, 1998.)

2986.4. Any acknowledgment by the lessee of delivery of a copy of a lease contract or purchase order and any vehicle lease proposal and any credit statement which the lessor has required or requested the lessee to sign, and which the lessee has signed, during the contract negotiations, shall be printed or written in size equal to at least 10-point bold type and, if contained in the contract, shall appear directly above the space reserved for the lessee's signature. The lessee's written acknowledgment, conforming to the requirements of this section, of delivery of a completely filled in copy of the contract, and a copy of such other documents shall be a rebuttable presumption of delivery in any action or proceeding by or against a third party without knowledge to the contrary when he or she acquired his or her interest in the contract. If such third party furnishes the lessee a copy of such documents, or a notice containing items set forth in subdivision (c) of Section 2985.8, and stating that the lessee shall notify such third party in writing within 30 days if he or she was not furnished a copy of such documents, and no such notification is given, it shall be conclusively presumed in favor of such a third party that copies of the documents were furnished as required by this chapter.

(Amended Sec. 10, Ch. 800, Stats. 1997. Effective January 1, 1998.)

2986.5. (a) No person shall lease a used motor vehicle for operation on California highways if such vehicle does not meet all of the equipment requirements of Division 12 (commencing with Section 24000) of the Vehicle Code. This subdivision does not apply to an extension or a subsequent lease of the same motor vehicle to the same lessee.

(b) If a lessee of a vehicle pays to the lessor an amount for the licensing or transfer of title of the vehicle which amount is in excess of the actual fees due for such licensing or transfer, or which amount is in excess of the amount which has been paid, prior to the sale, by the lessor to the state in order to avoid penalties that would have accrued because of late payment of such fees, the lessor shall return such excess amount to the lessee, whether or not such lessee requests the return of the excess amount.

(Added Ch. 1284, Stats. 1976. Operative March 23, 1977.)

2986.6. No agreement in connection with a lease contract which provides for the inclusion of title to or a lien upon any personal or real property, other than the motor vehicle which is the subject matter of the lease contract, or accessories therefor, or special and auxiliary equipment used in connection therewith, as security for the payment of the contract obligations, shall be enforceable. This section does not apply to a security deposit, advance payment of rent or other cash prepayment.

(Added Ch. 1284, Stats. 1976. Operative March 23, 1977.)

2986.10. (a) An assignee of the lessor's rights is subject to all equities and defenses of the lessee against the lessor, notwithstanding an agreement to the contrary, but the assignee's liability may not exceed the amount of the obligation owing to the assignee at the time of the assignment.

(b) The assignee shall have recourse against the lessor to the extent of any liability incurred by the assignee pursuant to this section regardless of whether the assignment was with or without recourse.

(Added Ch. 1284, Stats. 1976. Operative March 23, 1977.)

2986.12. It shall be unlawful for any lessor to induce or attempt to induce any person to enter into a contract subject to this chapter by offering a rebate, discount, commission or other consideration, on the condition that the lessee gives information or assistance for the purpose of enabling a lessor to either lease or sell a motor vehicle to another.

(Added Ch. 1284, Stats. 1976. Operative March 23, 1977.)

2986.13. (a) Any payment made by a lessee to a lessor pending the execution of a lease contract shall be refunded to the lessee in the event the lease contract is not executed.

(b) In the event of breach by the lessor of a lease contract where the lessee leaves his or her motor vehicle with the lessor as a trade-in downpayment and the motor vehicle is not returned by the lessor to the lessee for whatever reason, the lessee may recover from the lessor either the fair market value of the motor vehicle left as a downpayment or its value as stated in the lease contract, whichever is greater. The recovery shall be tendered to the lessee within five business days after the breach.

(c) The remedies of the buyer provided for in subdivision (b) are nonexclusive and cumulative and shall not preclude the lessee from pursuing any other remedy which he or she may have under any other provision of law.

(Amended Sec. 11, Ch. 800, Stats. 1997. Effective January 1, 1998.)

2987. (a) A lessee has the right to terminate a lease contract at any time prior to the scheduled expiration date specified in the lease contract. Except as provided in subdivision (f), all of the following subdivisions of this section apply in the event of an early termination.

(b) The lessee's liability shall not exceed the sum of the following:

(1) All unpaid periodic lease payments that have accrued up to the date of termination.

(2) All other amounts due and unpaid by the lessee under the lease contract, other than excess wear and mileage charges and unpaid periodic lease payments.

(3) Any charges, however denominated, that the lessor or holder of the lease contract may assess in connection with termination not to exceed in the aggregate the amount of a reasonable disposition fee, if any, disclosed in the lease contract and assessed upon termination of the lease contract.

(4) In the event of the lessee's default, reasonable fees paid by the lessor or holder for reconditioning of the leased vehicle and reasonable and necessary fees paid by the lessor or holder, if any, in connection with the repossession and storage of the leased vehicle.

(5) The difference, if any, between the adjusted capitalized cost disclosed in the lease contract and the sum of (A) all depreciation and other amortized amounts accrued through the date of early termination, calculated in accordance with the constant yield or other generally accepted actuarial method, and (B) the realized value of the vehicle as provided in subdivision (c).

(c) Subject to subdivision (d), the realized value of the vehicle used to calculate the lessee's liability under paragraph (5) of subdivision (b) shall be (1) if the lessee maintains insurance on the leased vehicle as required in the lease contract and the vehicle is a total loss as a result of theft or damage, the amount of any applicable insurance deductible owed by the lessee and the proceeds of the settlement of the insurance claim, unless a higher amount is agreed to by the holder of the lease contract, (2) if the lessee elects to have an appraisal conducted as provided in Regulation M, the value

determined on appraisal, (3) if the holder of the lease contract or lessor elects to retain ownership of the vehicle for use or to lease to a subsequent lessee, the wholesale value of the vehicle as specified in the current edition of a recognized used vehicle value guide customarily used by California motor vehicle dealers to value vehicles in this state, including, but not limited to, the Kelley Blue Book Auto Market Report and the N.A.D.A. Official Used Car Guide, or (4) under all other circumstances, the higher of (A) the price paid for the vehicle upon disposition, or (B) any other amount established by the lessor or the lease contract.

(d) (1) The lessor or holder of the lease contract shall act in good faith and in a commercially reasonable manner in connection with the disposition of the vehicle.

(2) In addition to the requirements of paragraph (1), any disposition of the vehicle shall be preceded by a notice complying with both of the following:

(A) The notice shall be in writing and given by the holder of the contract to each lessee and guarantor at least 10 days in advance of any disposition or the date by which the value of the vehicle will be determined pursuant to paragraph (3) of subdivision (c). The notice shall be personally served or shall be sent by certified mail, return receipt requested, or first-class mail, postage prepaid, directed to the last known address of each lessee and guarantor. One notice is sufficient if those persons are married to each other and the most recent records of the holder of the lease contract indicate that they reside at the same address. The last known address of each lessee and guarantor shall be presumed to be the address stated in the lease contract or guaranty for each lessee and guarantor unless the lessee or guarantor notifies the holder of the lease contract of a change of address.

(B) The notice shall set forth (i) the time and place of any public sale, the time on or after which a private sale or other intended disposition is to be made, or the date by which the value of the vehicle will be determined pursuant to paragraph (3) of subdivision (c), (ii) an itemization of all amounts claimed under paragraphs (1) to (4), inclusive, of subdivision (b), (iii) the amount of the difference between the adjusted capitalized cost and the sum of all depreciation and other amortized amounts paid through the date of early termination as provided in paragraph (5) of subdivision (b), (iv) the total of these amounts identified as the "Gross Early Termination Amount," and (v) one of the following statements, whichever is applicable:

[To be inserted when the realized value will be determined pursuant to paragraph (3) of subdivision (c)]

"The amount you owe for early termination will be no more than the difference between the Gross Early Termination Amount stated above and (1) the appraised value of the vehicle or (2) if there is no appraisal, the wholesale value specified in a recognized used vehicle value guide.

You have the right to get a professional appraisal to establish the value of the vehicle for the purpose of figuring how much you owe on the lease. If you want an appraisal, you will have to arrange for it to be completed at least three days before the scheduled valuation date. The appraiser has to be an independent person acceptable to the holder of the lease. You will have to pay for the appraiser. The appraised value will be considered final and binding on you and the holder of the lease."

[To be inserted in all other circumstances]

"The amount you owe for early termination will be no more than the difference between the Gross Early Termination Amount stated above and (1) the appraised value of the vehicle or (2) if there is no appraisal, either the price received for the vehicle upon disposition or a greater amount established by the lessor or the lease contract.

You have the right to get a professional appraisal to establish the value of the vehicle for the purpose of figuring how much you owe on the lease. If you want an appraisal, you will have to arrange for it to be completed at least three days before the scheduled sale date of the vehicle. The appraiser has to be an independent person acceptable to the holder of the lease. You will have to pay for the appraiser. The appraised value will be considered final and binding on you and the holder of the lease."

(3) The lessee shall have no liability under subdivision (b) if the lessor or holder of the lease contract does not comply with this subdivision. This paragraph does not apply under all the following conditions:

(A) Noncompliance was the result of a bona fide error in stating an amount required to be disclosed pursuant to clause (ii), (iii), or (iv) of subparagraph (B) of paragraph (2).

(B) The holder of the lease gives the lessee written notice of the error within 30 days after discovering the error and before (i) an action is filed to recover the amount claimed to be owed or (ii) written notice of the error is received by the holder of the lease from the lessee.

(C) The lessee is liable for the lesser of the originally claimed amount or the correct amount.

(D) The holder of the lease refunds any amount collected in excess of the amount described in subparagraph (C) within 10 days after notice of the error is given. "Bona fide error," as used in this paragraph, means an error that was not intentional and occurred notwithstanding the maintenance of procedures reasonably adapted to avoid that error. Examples of a bona fide error include clerical errors, calculation errors, errors due to unintentionally improper computer programming or data entry, and printing errors, but does not include an error of legal judgment with respect to a lessor's or lease contractholder's obligations under this section.

(4) This subdivision does not apply when the lessee maintains insurance on the leased vehicle as required in the lease contract and the vehicle is declared a total loss by the insurer as a result of theft or damage.

(e) The lessor or holder of the lease contract shall credit any security deposit or advance rental payment held by the lessor or holder of the lease contract against the lessee's liability under the lease contract as limited by this section. The portion of a security deposit or advance rental payment, if any, remaining after the lessee's liability under the lease contract as limited by this section has been satisfied shall be returned to the lessee within 30 days of the satisfaction of the obligation.

(f) Subdivisions (b) to (d), inclusive, do not apply if, prior to the scheduled expiration date specified in the lease contract, the lessee terminates the lease and purchases the vehicle or trades in the vehicle in connection with the purchase or lease of another vehicle. In such an event, the selling price of the leased vehicle, exclusive of taxes and other charges incidental to the sale, shall not exceed the sum of the following and shall relieve the lessee of any further liability under the lease contract:

(1) All unpaid periodic lease payments that have accrued up to the date of termination.

(2) All other amounts due and unpaid by the lessee under the lease contract, other than excess wear and mileage charges and unpaid periodic lease payments.

(3) Any charges, however denominated, that the lessor or holder of the lease contract may assess in connection with termination of the lease contract and the acquisition of the vehicle, not to exceed in the aggregate the amount of a reasonable purchase option fee, if any, disclosed in the lease contract and assessed upon the scheduled termination of the lease contract.

(4) The adjusted capitalized cost disclosed in the lease contract less all depreciation and other amortized amounts accrued through the date of early termination, calculated in accordance with the constant yield or other generally accepted actuarial method.

(g) If the lessee terminates a lease contract, voluntarily returns possession of the vehicle to the lessor, and timely pays all sums required under the lease contract as limited by this section, the lessor or holder shall not provide any adverse information concerning the early termination to any consumer credit reporting agency.

(h) The Rule of 78 shall not be used to calculate accrued rent charges.

(i) This section shall only apply to lease contracts entered into on and after January 1, 1998.

(Amended Sec. 12, Ch. 800, Stats. 1997. Effective January 1, 1998.)

2988. (a) The Legislature finds that it is necessary to provide some protection for consumers who enter into lease contracts in which the lessee will bear the risk of the motor vehicle's depreciation. This section is intended to provide relief to the consumer when an ostensibly inexpensive lease contract establishes an excessively low level of periodic payment which results, conversely, in an excessively high liability being imposed on the lessee at the expiration of the lease term because the lessor has failed to act in good faith in either estimating a residual value of the motor vehicle or establishing a level of periodic payment which bears no reasonable relation to the motor vehicle's reasonably expected depreciation during the lease term. Therefore, the lessor will have the obligation to act in good faith and to come forward with competent evidence showing that the estimated residual value was so determined given the circumstances existing at the inception of the lease contract.

(b) Where the lessee is to bear the risk of the motor vehicle's depreciation and the lessee's liability on expiration of a consumer lease is based on the estimated residual value of the motor vehicle such estimated residual value shall be a reasonable approximation of the anticipated actual fair market value of the motor vehicle on lease expiration. There shall be a rebuttable presumption that the estimated residual value is unreasonable to the extent that the estimated residual value exceeds the actual residual value by more than three times the average payment allocable to a monthly period under the lease. The presumption stated in the preceding sentence shall not apply to the extent the excess of estimated over actual residual value is due to physical damage to the motor vehicle beyond reasonable wear and use, or to excessive use, and the lease may set standards for such wear and use if such standards are not unreasonable.

(c) For the purposes of this chapter, "fair market value" means the value the motor vehicle would have when sold in a commercially reasonable manner in the customary market for such motor vehicle.

(Added Ch. 1284, Stats. 1976. Operative March 23, 1977.)

2988.5. (a) Except as otherwise provided by this section, any lessor who fails to comply with any requirement imposed under Section 2985.8 or 2988 for which no specific relief is provided with respect to any person shall be liable to such person in an amount equal to the sum of:

(1) Any actual damages sustained by such person as a result of the failure.

(2) In the case of an individual action, 25 percent of the total amount of monthly payments under the lease except that liability under this subparagraph shall not be less than one hundred dollars ($100) nor greater than one thousand dollars ($1,000); or in the case of a class action, such amount as the court may allow, except that as to each member of the class no minimum recovery shall be applicable, and the total recovery in such action shall not be more than the lesser of five hundred thousand dollars ($500,000) or 1 percent of the net worth of the lessor.

(3) The costs of the action, together with a reasonable attorney's fee as determined by the court.

(b) In determining the amount of award in any class action, the court shall consider, among other relevant factors, the amount of any actual damages sustained, the frequency and persistence of failure of compliance by the lessor, the resources of the lessor, the number of persons adversely affected, and the extent to which the lessor's failure of compliance was intentional.

(c) A lessor shall not be liable under this section if within 15 days after discovery of an error, and prior to the institution of an action under this section or the receipt of written notice of the error, the lessor notifies the person concerned of the error and makes whatever adjustments in the appropriate account are necessary to insure that the person will not be required to pay any amount in excess of the amount that should correctly have been disclosed.

(d) A lessor may not be held liable in any action brought under this section for a violation of this chapter if the lessor shows by a preponderance of evidence that the violation was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adopted to avoid any such error.

(e) Except as otherwise specifically provided in this chapter, any civil action for a violation of this chapter which may be brought against the original lessor in any lease transaction may be maintained against any subsequent assignee of the original lessor where the violation from which the alleged liability arose is apparent on the face of the instrument assigned unless the assignment is involuntary.

(f) A person may not take any action to offset any amount for which a lessor is potentially liable to such person under paragraph (2) of subdivision (a) against any amount owing to such lessor by such person, unless the amount of the lessor's liability to such person has been determined by judgment of a court of competent jurisdiction in an action to which such person was a party.

(g) No provision of this section imposing any liability shall apply to any act done or omitted in good faith conformity with any rule, regulation or interpretation of federal law, notwithstanding that after such act or omission has occurred, such rule, regulation or interpretation is amended, rescinded or determined by judicial or other authority to be invalid for any reason.

(h) The multiple failure to disclose any information required under this chapter to be disclosed in connection with a single lease transaction shall entitle the person to a single recovery under this section, but continued failure to disclose after a recovery has been granted shall give rise to rights to additional recoveries.

(i) Actions alleging a failure to disclose or otherwise comply with the requirements of this chapter shall be brought within one year of the termination of the lease contract.

(Added Ch. 1284, Stats. 1976. Operative March 23, 1977.)

2988.7. If the lessor fails to comply with Section 2985.8, as an alternative to an action under Section 2988.5, the lessee may rescind the contract if the failure to comply was willful, or if correction will increase the amount of the contract balance, unless the lessor waives the collection of the increased amount.

(Added Ch. 1284, Stats. 1976. Operative March 23, 1977.)

2988.9. Reasonable attorney's fees and costs shall be awarded to the prevailing party in any action on a lease contract subject to the provisions of this chapter regardless of whether the action is instituted by the lessor, assignee, or lessee. Where the defendant alleges in his or her answer that he or she tendered to the plaintiff the full amount to which he or she was entitled, and thereupon deposits in court, for the plaintiff, the amount so tendered, and the allegation is found to be true, then the defendant is deemed to be the prevailing party within the meaning of this section.

(Amended Sec. 42, Ch. 183, Stats. 2004. Effective January 1, 2005.)

2989. No civil action shall be filed against a lessor under the authority of this chapter if a federal civil action has previously been filed based on facts that give rise to a similar cause of action under this chapter.

(Added Ch. 1284, Stats. 1976. Operative March 23, 1977.)

2989.2. Where the lessee is to bear the risk of the motor vehicle's depreciation upon the scheduled expiration of the lease contract, the following applies:

(a) When disposing of a vehicle or obtaining cash bids for the purpose of setting the fair market value of a vehicle, the lessor shall act in a commercially reasonable manner in the customary market for such vehicle.

(b) Any provision in a lease contract to the contrary notwithstanding, at least 10 days written notice of intent to sell such motor vehicle shall be given by the holder of the contract to each lessee and guarantor, unless the lessor and lessee have agreed in writing to the amount of the lessee's liability under the lease contract after the lessee returns the motor vehicle to the lessor, or the lessee has satisfied the lease contract obligations by payment to the lessor. The notice shall be personally served or shall be sent by certified mail, return receipt requested, directed to the address of the lessee shown on the contract, unless the lessee has notified the holder in writing of a different address. The notice shall set forth separately any charges or sums due and state that the lessee will be liable for the difference between the amount of liability imposed on the lessee at the expiration of the lease term and the actual cash value of the motor vehicle when it is sold. The notice shall also state that the lessee has the right to submit a cash bid for the purchase of the vehicle.

(Amended Sec. 13, Ch. 800, Stats. 1997. Effective January 1, 1998.)

2989.4. (a) A lessor shall not:

(1) Fail to register the leased vehicle pursuant to the lease contract.

(2) Advertise any specific vehicle in the inventory of the lessor for lease without identifying such vehicle by either its vehicle identification number or license number.

(3) Refuse to lease a vehicle to any creditworthy person at the advertised total price, exclusive of sales tax, vehicle registration fees and finance charges.

(b) Notwithstanding Section 2988.5, a lessor shall not suffer civil liability for a violation of this section.

(Added Ch. 1284, Stats. 1976. Operative March 23, 1977.)

2989.5. (a) Except as provided in subdivision (c), a lessor shall make available to investigators of the Department of Motor Vehicles, upon presentation of an affidavit that the department has a consumer complaint within its jurisdiction, the records relevant to the transaction complained of. If the affidavit states that the department has reasonable cause to believe there is a pattern of conduct or common scheme in similar transactions, the records relevant to all such similar transactions shall be made available.

(b) Except as provided in subdivision (c), on petition of the department alleging the receipt of a consumer complaint within its jurisdiction and alleging that the lessor refuses to make available his records as required, the court shall order the lessor to make available such records or show cause why such records should not be produced. The department shall be awarded reasonable attorney's fees and costs if it prevails in such action.

(c) (1) In the case of a financial institution, or a subsidiary or affiliated corporation of such institution, the Director of Motor Vehicles shall report in writing an apparent violation, or failure to comply with this chapter, evidenced by a consumer complaint, to the agency or department of the state or federal government responsible for supervising the leasing activities of such institution.

(2) Within 20 days, such agency or department shall advise the director of the action taken with respect to such report.

(3) If such agency or department fails to so advise the director, the director may commence an action to compel the agency or department to cause the production of the records relevant to the consumer complaint.

(Added Ch. 1284, Stats. 1976. Operative March 23, 1977.)

2989.6. The Director of Motor Vehicles may adopt and enforce rules and regulations as may be necessary to carry out or implement the provisions of this chapter.

Rules and regulations shall be adopted, amended or repealed in accordance with Chapter 4.5 (commencing with Section 11370) of Part 1 of Division 3 of Title 2 of the Government Code.

(Added Ch. 1284, Stats. 1976. Operative March 23, 1977.)

2989.8. Any person who shall knowingly and willfully violate any provision of this chapter shall be guilty of a misdemeanor.

(Added Ch. 1284, Stats. 1976. Operative March 23, 1977.)

2990. This chapter shall not apply to any transaction which is regulated by Chapter 2b (commencing with Section 2981) of this title.

(Added Ch. 1284, Stats. 1976. Operative March 23, 1977.)

2991. Any prospective assignee that provides a lessor under a lease contract with any preprinted form for use as a lease contract shall, upon the request of a lessor, provide the lessor with a Spanish language translation of the preprinted form.

(Added Sec. 1, Ch. 235, Stats. 1999. Effective January 1, 2000. Operative January 1, 2001.)

2992. A prospective assignee that provides a lessor under a lease contract with a preprinted form for use as a lease contract shall design the form in such a manner so as to provide on its face sufficient space for the lessor to include all disclosures and itemizations required pursuant to Section 2985.8 and shall also contain on its face a separate blank space no smaller than seven and one-half square inches for the lessor and lessee to memorialize trade-in, turn-in, and other individualized agreements.

(Added Sec. 4, Ch. 287, Stats. 2001. Effective January 1, 2002.)

Liens on Vehicles

3067. Words used in this chapter which are defined in Division 1 of the Vehicle Code shall have the same meaning as in the Vehicle Code.

3067.1. All forms required pursuant to the provisions of this chapter shall be prescribed by the Department of Motor Vehicles. The language used in the notices and declarations shall be simple and nontechnical.

(Added Ch. 1111, Stats. 1980. Effective January 1, 1981.)

3067.2. This chapter shall not apply to any manufactured home, as defined in Section 18007 of the Health and Safety Code, to any mobilehome, as defined in Section 18008 of the Health and Safety Code, or to any commercial coach, as defined in Section 18001.8 of the Health and Safety Code, whether or not the manufactured home, mobilehome, or commercial coach is subject to registration under the Health and Safety Code.

(Added Ch. 1124, Stats. 1983. Effective January 1, 1984.)

3068. (a) Every person has a lien dependent upon possession for the compensation to which the person is legally entitled for making repairs or performing labor upon, and furnishing supplies or materials for, and for the storage, repair, or safekeeping of, and for the rental of parking space for, any vehicle of a type subject to registration under the Vehicle Code, subject to the limitations set forth in this chapter. The lien shall be deemed to arise at the time a written statement of charges for completed work or services is presented to the registered owner or 15 days after the work or services are completed, whichever occurs first.

(b) (1) Any lien under this section that arises because work or services have been performed on a vehicle with the consent of the registered owner shall be extinguished and no lien sale shall be conducted unless either of the following occurs:

(A) The lienholder applies for an authorization to conduct a lien sale within 30 days after the lien has arisen.

(B) An action in court is filed within 30 days after the lien has arisen.

(2) A person whose lien for work or services on a vehicle has been extinguished shall turn over possession of the vehicle, at the place where the work or services were performed, to the legal owner or the lessor upon demand of the legal owner or lessor, and upon tender by the legal owner or lessor, by cashiers check or in cash, of only the amount for storage, safekeeping, or parking space rental for the vehicle to which the person is entitled by subdivision (c).

(3) Any lien under this section that arises because work or services have been performed on a vehicle with the consent of the registered owner shall be extinguished, and no lien sale shall be conducted, if the lienholder, after written demand made by either personal service or certified mail with return receipt requested by the legal owner or the lessor to inspect the vehicle, fails to permit that inspection by the legal owner or lessor, or his or her agent, within a period of time not sooner than 24 hours nor later than 72 hours after the receipt of that written demand, during the normal business hours of the lienholder.

(c) The lienholder shall not charge the legal owner or lessor any amount for release of the vehicle in excess of the amounts authorized by this subdivision.

(1) That portion of the lien in excess of seven hundred fifty dollars ($750) for any work or services, or that amount in excess of four hundred dollars ($400) for any storage, safekeeping, or rental of parking space or, if an application for an authorization to conduct a lien sale has been filed pursuant to Section 3071 within 30 days after the commencement of the storage or safekeeping, in excess of five hundred dollars ($500) for any storage or safekeeping, rendered or performed at the request of any person other than the legal owner or lessor, is invalid, unless prior to commencing any work, services, storage, safekeeping, or rental of parking space, the person claiming the lien gives actual notice in writing either by personal service or by registered letter addressed to the legal owner named in the registration certificate, and the written consent of that legal owner is obtained before any work, services, storage, safekeeping, or rental of parking space are performed.

(2) If any portion of a lien includes charges for the care, storage, or safekeeping of, or for the rental of parking space for, a vehicle for a period in excess of 60 days, the portion of the lien that accrued after the expiration of that period is invalid unless Sections 10650 and 10652 of the Vehicle Code have been complied with by the holder of the lien.

(3) The charge for the care, storage, or safekeeping of a vehicle which may be charged to the legal owner or lessor shall not exceed that for one day of storage if, 24 hours or less after the vehicle is placed in storage, a request is made for the release of the vehicle. If the request is made more than 24 hours after the vehicle is placed in storage, charges may be imposed on a full, calendar-day basis for each day, or part thereof, that the vehicle is in storage.

(d) In any action brought by or on behalf of the legal owner or lessor to recover a vehicle alleged to be wrongfully withheld by the person claiming a lien pursuant to this section, the prevailing party shall be entitled to reasonable attorneys fees and costs, not to exceed one thousand seven hundred fifty dollars ($1,750).

(Amended Ch. 799, Stats. 1994. Effective January 1, 1995.)

3068.1. (a) Every person has a lien dependent upon possession for the compensation to which the person is legally entitled for towing, storage, or labor associated with recovery or load salvage of any vehicle subject to registration that has been authorized to be removed by a public agency, a private property owner pursuant to Section 22658 of the Vehicle Code, or a lessee, operator, or registered owner of the vehicle. The lien is deemed to arise on the date of possession of the vehicle. Possession is deemed to arise when the vehicle is removed and is in transit, or when vehicle recovery operations or load salvage operations have begun. A person seeking to enforce a lien for the storage and safekeeping of a vehicle shall impose no charge exceeding that for one day of storage if, 24 hours or less after the vehicle is placed in storage, the vehicle is released. If the release is made more than 24 hours after the vehicle is placed in storage, charges may be imposed on a full, calendar-day basis for each day, or part thereof, that the vehicle is in storage. If a request to

release the vehicle is made and the appropriate fees are tendered and documentation establishing that the person requesting release is entitled to possession of the vehicle, or is the owner's insurance representative, is presented within the initial 24 hours of storage, and the storage facility fails to comply with the request to release the vehicle or is not open for business during normal business hours, then only one day's charge may be required to be paid until after the first business day. A "business day" is any day in which the lienholder is open for business to the public for at least eight hours. If the request is made more than 24 hours after the vehicle is placed in storage, charges may be imposed on a full-calendar day basis for each day, or part thereof, that the vehicle is in storage.

(b) If the vehicle has been determined to have a value not exceeding four thousand dollars ($4,000), the lien shall be satisfied pursuant to Section 3072. Lien sale proceedings pursuant to Section 3072 shall commence within 15 days of the date the lien arises. No storage shall accrue beyond the 15-day period unless lien sale proceedings pursuant to Section 3072 have commenced. The storage lien may be for a period not exceeding 60 days if a completed notice of a pending lien sale form has been filed pursuant to Section 3072 within 15 days after the lien arises. Notwithstanding this 60-day limitation, the storage lien may be for a period not exceeding 120 days if any one of the following occurs:

(1) A Declaration of Opposition is filed with the department pursuant to Section 3072.

(2) The vehicle has an out-of-state registration.

(3) The vehicle identification number was altered or removed.

(4) A person who has an interest in the vehicle becomes known to the lienholder after the lienholder has complied with subdivision (b) of Section 3072.

(c) If the vehicle has been determined to have a value exceeding four thousand dollars ($4,000) pursuant to Section 22670 of the Vehicle Code, the lien shall be satisfied pursuant to Section 3071. The storage lien may be for a period not exceeding 120 days if an application for an authorization to conduct a lien sale has been filed pursuant to Section 3071.

(d) Any lien under this section shall be extinguished, and no lien sale shall be conducted, if any one of the following occurs:

(1) The lienholder, after written demand to inspect the vehicle made by either personal service or certified mail with return receipt requested by the legal owner or the lessor, fails to permit the inspection by the legal owner or lessor, or his or her agent, within a period of time of at least 24 hours, but not to exceed 72 hours, after the receipt of that written demand, during the normal business hours of the lienholder. The legal owner or lessor shall comply with inspection and vehicle release policies of the impounding public agency.

(2) The amount claimed for storage exceeds the posted rates.

(Amended Sec. 1, Ch. 203, Stats. 1998. Effective January 1, 1999.)

3068.2. (a) A tow truck operator who has a lien on a vehicle pursuant to Section 3068.1 has a deficiency claim against the registered owner of the vehicle if the vehicle is not leased or leased with a driver for an amount equal to the towing and storage charges, not to exceed 120 days of storage, and the lien sale processing fee pursuant to Section 3074, less the amount received from the sale of the vehicle. (b) A tow truck operator who has a lien on a vehicle pursuant to Section 3068.1 has a deficiency claim against the lessee of the vehicle if the vehicle is leased without a driver for an amount equal to the towing and storage charge, not to exceed 120 days of storage, and the lien sale processing fee described in Section 3074, less the amount received from the sale of the vehicle. (c) Storage costs incurred after the sale shall not be included in calculating the amount received from the sale of the vehicle. (d) A registered owner who has sold or transferred his or her vehicle prior to the vehicle's removal and who was not responsible for creating the circumstances leading to the removal of the vehicle is not liable for any deficiency under this section if that registered owner executes a notice pursuant to Section 5900 of the Vehicle Code and submits the notice to the Department of Motor Vehicles. The person identified as the transferee in the notice submitted to the Department of Motor Vehicles shall be liable for the amount of any deficiency only if that person received notice of the transfer and is responsible for the event leading to abandonment of the vehicle or requested the removal. (e) Except as provided in Section 22524.5 of the Vehicle Code, if the transferee is an insurer and the transferor is its insured or his or her agent or representative, the insurer shall not be liable for any deficiency, unless the insurer agrees at the time of the transfer, to assume liability for the deficiency.

3069. Any lien provided for in this chapter for labor or materials, or for storage or safekeeping of a vehicle when abandoned on private property may be assigned by written instrument accompanied by delivery of possession of the vehicle, subject to the lien, and the assignee may exercise the rights of a lienholder as provided in this chapter. Any lienholder assigning a lien as authorized herein shall at the time of assigning the lien give written notice either by personal delivery or by registered or certified mail, to the registered and legal owner of the assignment, including the name and address of the person to whom the lien is assigned.

(Amended Ch. 125, Stats. 1969. Effective November 10, 1969.)

3070. (a) Whenever the possessory lien upon any vehicle is lost through trick, fraud, or device, the repossession of the vehicle by the lienholder revives the possessory lien but any lien so revived is subordinate to any right, title, or interest of any person under any sale, transfer, encumbrance, lien, or other interest acquired or secured in good faith and for value between the time of the loss of possession and the time of repossession.

(b) It is a misdemeanor for any person to obtain possession of any vehicle or any part thereof subject to a lien pursuant to this chapter by trick, fraud, or device.

(c) It is a misdemeanor for any person claiming a lien on a vehicle to knowingly violate this chapter.

(d) (1) Any person who improperly causes a vehicle to be towed or removed in order to create or acquire a lienhold interest enforceable under this chapter, or who violates subdivision (c), shall forfeit all claims for towing, removal, or storage, and shall be liable to the owner or lessee of the vehicle for the cost of removal, transportation, and storage, damages resulting from the towing, removal, transportation, or storage of the vehicle, attorney's fees, and court costs.

(2) For purposes of this subdivision, "improperly causes a vehicle to be towed or removed" includes, but is not limited to, engaging in any of the following acts, the consequence of which is the towing or removal of a vehicle:

(A) Failure to comply with Section 10650, 10652.5, or 10655 of the Vehicle Code.

(B) Misrepresentation of information described in subdivision (b) of Section 10650 of the Vehicle Code.

(C) Failure to comply with Section 22658 of the Vehicle Code.

(D) Failure, when obtaining authorization for the removal of a vehicle from a vehicle owner or operator where a law enforcement officer is not present at the scene of an accident, to present a form for signature that plainly identifies all applicable towing and storage fees and charges by type and amount, and identifies the name and address of the storage facility unless a different storage facility is specified by the vehicle owner or operator, and to furnish a copy of the signed form to the owner or operator.

(E) Failure by the owner or operator of a facility used for the storage of towed vehicles to display, in plain view at all cashiers' stations, a sign not less than 17 by 22 inches in size with lettering not less than one inch in height, disclosing all storage fees and charges in force, including the maximum daily storage rate.

(F) Undertaking repairs or service on a vehicle which is being stored at a facility used for the storage of towed vehicles without first providing a written estimate to, and obtaining the express written consent of, the owner of the vehicle.

(G) The promise to pay or the payment of money or other valuable consideration by any owner or operator of a towing service to the owner or operator of the premises from which the vehicle is towed or removed, for the privilege of towing or removing the vehicle.

(Amended Ch. 799, Stats. 1994. Effective January 1, 1995.)

3071. (a) A lienholder shall apply to the department for the issuance of an authorization to conduct a lien sale pursuant to this section for any vehicle with a value determined to be over four thousand dollars ($4,000). A filing fee shall be charged by the department and may be recovered by the lienholder if a lien sale is conducted or if the vehicle is redeemed. The application shall be executed under penalty of perjury and shall include all of the following information:

(1) A description of the vehicle, including make, year model, identification number, license number, and state of registration. For motorcycles, the engine number also shall be included. If the vehicle

identification number is not available, the department shall request an inspection of the vehicle by a peace officer, licensed vehicle verifier, or departmental employee before accepting the application.

(2) The names and addresses of the registered and legal owners of the vehicle, if ascertainable from the registration certificates within the vehicle, and the name and address of any person whom the lienholder knows, or reasonably should know, claims an interest in the vehicle.

(3) A statement of the amount of the lien and the facts that give rise to the lien.

(b) Upon receipt of an application made pursuant to subdivision (a), the department shall do all of the following:

(1) Notify the vehicle registry agency of a foreign state of the pending lien sale, if the vehicle bears indicia of registration in that state.

(2) By certified mail, send a notice, a copy of the application, and a return envelope preaddressed to the department to the registered and legal owners at their addresses of record with the department, and to any other person whose name and address is listed in the application.

(c) The notice required pursuant to subdivision (b) shall include all of the following statements and information:

(1) An application has been made with the department for authorization to conduct a lien sale.

(2) The person has a right to a hearing in court.

(3) If a hearing in court is desired, a Declaration of Opposition form, signed under penalty of perjury, shall be signed and returned to the department within 10 days of the date that the notice required pursuant to subdivision (b) was mailed.

(4) If the Declaration of Opposition form is signed and returned to the department, the lienholder shall be allowed to sell the vehicle only if he or she obtains a court judgment, if he or she obtains a subsequent release from the declarant or if the declarant, cannot be served as described in subdivision (e).

(5) If a court action is filed, the declarant shall be notified of the lawsuit at the address shown on the Declaration of Opposition form and may appear to contest the claim.

(6) The person may be liable for court costs if a judgment is entered in favor of the lienholder.

(d) If the department receives the Declaration of Opposition form in the time specified, the department shall notify the lienholder within 16 days of the receipt of the form that a lien sale shall not be conducted unless the lienholder files an action in court within 30 days of the department"s notice under this subdivision. A lien sale of the vehicle shall not be conducted unless judgment is subsequently entered in favor of the lienholder or the declarant subsequently releases his or her interest in the vehicle. If a money judgment is entered in favor of the lienholder and the judgment is not paid within five days after becoming final, then the judgment may be enforced by lien sale proceedings conducted pursuant to subdivision (f).

(e) Service on the declarant in person or by certified mail with return receipt requested, signed by the declarant or an authorized agent of the declarant at the address shown on the Declaration of Opposition form, shall be effective for the serving of process. If the lienholder has served the declarant by certified mail at the address shown on the Declaration of Opposition form and the mail has been returned unclaimed, or if the lienholder has attempted to effect service on the declarant in person with a marshal, sheriff, or licensed process server and the marshal, sheriff, or licensed process server has been unable to effect service on the declarant, the lienholder may proceed with the judicial proceeding or proceed with the lien sale without a judicial proceeding. The lienholder shall notify the department of the inability to effect service on the declarant and shall provide the department with a copy of the documents with which service on the declarant was attempted. Upon receipt of the notification of unsuccessful service, the department shall send authorization of the sale to the lienholder and send notification of the authorization to the declarant.

(f) Upon receipt of authorization to conduct the lien sale from the department, the lienholder shall immediately do all of the following:

(1) At least five days, but not more than 20 days, prior to the lien sale, not counting the day of the sale, give notice of the sale by advertising once in a newspaper of general circulation published in the county in which the vehicle is located. If there is no newspaper published in the county, notice shall be given by posting a Notice of Sale form in three of the most public places in the town in which the vehicle is located and at the place where the vehicle is to be sold for 10 consecutive days prior to and including the day of the sale.

(2) Send a Notice of Pending Lien Sale form 20 days prior to the sale but not counting the day of sale, by certified mail with return receipt requested, to each of the following:

(A) The registered and legal owners of the vehicle, if registered in this state.

(B) All persons known to have an interest in the vehicle.

(C) The department.

(g) All notices required by this section, including the notice forms prescribed by the department, shall specify the make, year model, vehicle identification number, license number, and state of registration, if available, and the specific date, exact time, and place of sale. For motorcycles, the engine number shall also be included.

(h) Following the sale of a vehicle, the person who conducts the sale shall do both of the following:

(1) Remove and destroy the vehicle"s license plates.

(2) Within five days of the sale, submit a completed "Notice of Release of Liability" form to the Department of Motor Vehicles.

(i) The Department of Motor Vehicles shall retain all submitted forms described in paragraph (2) of subdivision (h) for two years.

(j) No lien sale shall be undertaken pursuant to this section unless the vehicle has been available for inspection at a location easily accessible to the public for at least one hour before the sale and is at the place of sale at the time and date specified on the notice of sale. Sealed bids shall not be accepted. The lienholder shall conduct the sale in a commercially reasonable manner.

(k) Within 10 days after the sale of any vehicle pursuant to this section, the legal or registered owner may redeem the vehicle upon the payment of the amount of the sale, all costs and expenses of the sale, together with interest on the sum at the rate of 12 percent per annum from the due date thereof or the date when that sum was advanced until the repayment. If the vehicle is not redeemed, all lien sale documents required by the department shall then be completed and delivered to the buyer.

(*l*) Any lien sale pursuant to this section shall be void if the lienholder does not comply with this chapter. Any lien for fees or storage charges for parking and storage of a motor vehicle shall be subject to Section 10652.5 of the Vehicle Code.

(Amended Sec. 1, Ch. 127, Stats. 2001. Effective July 30, 2001.)

3071.5. (a) A registered or legal owner of a vehicle in the possession of a person holding a lien under this chapter may release any interest in the vehicle after the lien has arisen. The release shall be dated when signed and a copy shall be given at the time the release is signed to the person releasing the interest.

(b) The release shall be in at least 12-point type and shall contain all of the following information in simple, nontechnical language:

(1) A description of the vehicle, including the year and make, the engine or vehicle identification number, and the license number, if available.

(2) The names and addresses of the registered and legal owners of record with the Department of Motor Vehicles, if available.

(3) A statement of the amount of the lien and the facts concerning the claim which gives rise to the lien.

(4) A statement that the person releasing the interest understands that (i) he has a legal right to a hearing in court prior to any sale of the vehicle to satisfy the lien and (ii) he is giving up the right to appear to contest the claim of the lienholder.

(5) A statement that (i) the person releasing the interest gives up any interest he may have in the vehicle and (ii) he is giving the lienholder permission to sell the vehicle.

(c) The release required by this section shall not be filed with the department in connection with any transfer of interest in a vehicle.

(Amended Ch. 1005, Stats. 1978. Effective January 1, 1979.)

3072. (a) For vehicles with a value determined to be four thousand dollars ($4,000) or less, the lienholder shall apply to the department for the names and addresses of the registered and legal owners of record. The request shall include a description of the vehicle, including make, year, model, identification number, license number, and state of registration. If the vehicle identification number is not available, the Department of Motor Vehicles shall request an inspection of the vehicle by a peace officer, licensed vehicle verifier, or departmental employee before releasing the names and addresses of the registered and legal owners and interested parties.

(b) The lienholder shall, immediately upon receipt of the names and addresses, send, by certified mail with return receipt requested or by United States Postal Service Certificate of Mailing, a completed Notice of Pending Lien Sale form, a blank Declaration of Opposition form, and a return envelope preaddressed to the department, to the registered owner and legal owner at their addresses of record with the department, and to any other person known to have an interest in the vehicle. The lienholder shall additionally send a copy of the completed Notice of Pending Lien Sale form to the department by certified mail on the same day that the other notices are mailed pursuant to this subdivision.

(c) All notices to persons having an interest in the vehicle shall be signed under penalty of perjury and shall include all of the following information and statements:

(1) A description of the vehicle, including make, year model, identification number, license number, and state of registration. For motorcycles, the engine number shall also be included.

(2) The specific date, exact time, and place of sale, which shall be set not less than 31 days, but not more than 41 days, from the date of mailing.

(3) The names and addresses of the registered and legal owners of the vehicle and any other person known to have an interest in the vehicle.

(4) All of the following statements:

(A) The amount of the lien and the facts concerning the claim which gives rise to the lien.

(B) The person has a right to a hearing in court.

(C) If a court hearing is desired, a Declaration of Opposition form, signed under penalty of perjury, shall be signed and returned to the department within 10 days of the date the Notice of Pending Lien Sale form was mailed.

(D) If the Declaration of Opposition form is signed and returned, the lienholder shall be allowed to sell the vehicle only if he or she obtains a court judgment or if he or she obtains a subsequent release from the declarant or if the declarant cannot be served as described in subdivision (e).

(E) If a court action is filed, the declarant shall be notified of the lawsuit at the address shown on the Declaration of Opposition form and may appear to contest the claim.

(F) The person may be liable for court costs if a judgment is entered in favor of the lienholder.

(d) If the department receives the completed Declaration of Opposition form within the time specified, the department shall notify the lienholder within 16 days that a lien sale shall not be conducted unless the lienholder files an action in court within 30 days of the notice and judgment is subsequently entered in favor of the lienholder or the declarant subsequently releases his or her interest in the vehicle. If a money judgment is entered in favor of the lienholder and the judgment is not paid within five days after becoming final, then the judgment may be enforced by lien sale proceedings conducted pursuant to subdivision (f).

(e) Service on the declarant in person or by certified mail with return receipt requested, signed by the declarant or an authorized agent of the declarant at the address shown on the Declaration of Opposition form, shall be effective for the serving of process. If the lienholder has served the declarant by certified mail at the address shown on the Declaration of Opposition form and the mail has been returned unclaimed, or if the lienholder has attempted to effect service on the declarant in person with a marshal, sheriff, or licensed process server and the marshal, sheriff, or licensed process server has been unable to effect service on the declarant, the lienholder may proceed with the judicial proceeding or proceed with the lien sale without a judicial proceeding. The lienholder shall notify the Department of Motor Vehicles of the inability to effect service on the declarant and shall provide the Department of Motor Vehicles with a copy of the documents with which service on the declarant was attempted. Upon receipt of the notification of unsuccessful service, the Department of Motor Vehicles shall send authorization of the sale to the lienholder and shall send notification of the authorization to the declarant.

(f) At least 10 consecutive days prior to and including the day of the sale, the lienholder shall post a Notice of Pending Lien Sale form in a conspicuous place on the premises of the business office of the lienholder and if the pending lien sale is scheduled to occur at a place other than the premises of the business office of the lienholder, at the site of the forthcoming sale. The Notice of Pending Lien Sale form shall state the specific date and exact time of the sale and description of the vehicle, including the make, year model, identification number, license number, and state of registration. For motorcycles, the engine number shall also be included. The notice of sale shall remain posted until the sale is completed.

(g) Following the sale of a vehicle, the person who conducts the sale shall do both of the following:

(1) Remove and destroy the vehicle"s license plates.

(2) Within five days of the sale, submit a completed "Notice of Release of Liability" form with the Department of Motor Vehicles.

(h) The Department of Motor Vehicles shall retain all submitted forms described in paragraph (2) of subdivision (g) for two years.

(i) No lien sale shall be undertaken pursuant to this section unless the vehicle has been available for inspection at a location easily accessible to the public at least one hour before the sale and is at the place of sale at the time and date specified on the notice of sale. Sealed bids shall not be accepted. The lienholder shall conduct the sale in a commercially reasonable manner. All lien sale documents required by the department shall be completed and delivered to the buyer immediately following the sale.

(j) Any lien sale pursuant to this section shall be void if the lienholder does not comply with this chapter. Any lien for fees or storage charges for parking and storage of a motor vehicle shall be subject to Section 10652.5 of the Vehicle Code.

(Amended Sec. 2, Ch. 127, Stats. 2001. Effective July 30, 2001.)

3073. The proceeds of a vehicle lien sale under this article shall be disposed of as follows:

(a) The amount necessary to discharge the lien and the cost of processing the vehicle shall be paid to the lienholder. The cost of processing shall not exceed seventy dollars ($70) for each vehicle valued at four thousand dollars ($4,000) or less, or one hundred dollars ($100) for each vehicle valued over four thousand dollars ($4,000).

(b) The balance, if any, shall be forwarded to the Department of Motor Vehicles within 15 days of any sale conducted pursuant to Section 3071 or within five days of any sale conducted pursuant to Section 3072 and deposited in the Motor Vehicle Account in the State Transportation Fund, unless federal law requires these funds to be disposed in a different manner.

(c) Any person claiming an interest in the vehicle may file a claim with the Department of Motor Vehicles for any portion of the funds from the lien sale that were forwarded to the department pursuant to subdivision (b). Upon a determination of the Department of Motor Vehicles that the claimant is entitled to an amount from the balance deposited with the department, the department shall pay that amount determined by the department, which amount shall not exceed the amount forwarded to the department pursuant to subdivision (b) in connection with the sale of the vehicle in which the claimant claims an interest. The department shall not honor any claim unless the claim has been filed within three years of the date the funds were deposited in the Motor Vehicle Account.

(Amended Sec. 4, Ch. 203, Stats. 1998. Effective January 1, 1999.)

3074. The lienholder may charge a fee for lien sale preparations not to exceed seventy dollars ($70) in the case of a vehicle having a value determined to be four thousand dollars ($4,000) or less and not to exceed one hundred dollars ($100) in the case of a vehicle having a value determined to be greater than four thousand dollars ($4,000), from any person who redeems the vehicle prior to disposal or is paid through a lien sale pursuant to this chapter. These charges may commence and become part of the possessory lien when the lienholder requests the names and addresses of all persons having an interest in the vehicle from the Department of Motor Vehicles. Not more than 50 percent of the allowable fee may be charged until the lien sale notifications are mailed to all interested parties and the lienholder or registration service agent has possession of the required lien processing documents. This charge shall not be made in the case of any vehicle redeemed prior to 72 hours from the initial storage.

(Amended Sec. 5, Ch. 203, Stats. 1998. Effective January 1, 1999.)

3075. The procedures described in this chapter shall not be applicable if the vehicle is a mobilehome as defined in Section 396 of the Vehicle Code. A lien sale of a mobilehome may be conducted only if a judgment has been entered in favor of the lienholder.

(Repealed and Added, Ch. 1111, Stats. 1980. Effective January 1, 1981.)

Unlawful Subleasing

3343.5. (a) Any one or more of the following who suffers any damage proximately resulting from one or more acts of unlawful motor vehicle subleasing, as described in Chapter 12.7 (commencing with Section 570) of Title 13 of Part 1 of the Penal Code, may bring an action against the person who has engaged in those acts:

(1) A seller or other secured party under a conditional sale contract or a security agreement.

(2) A lender under a direct loan agreement.

(3) A lessor under a lease contract.

(4) A buyer under a conditional sale contract.

(5) A purchaser under a direct loan agreement, an agreement which provides for a security interest, or an agreement which is equivalent to these types of agreements.

(6) A lessee under a lease contract.

(7) An actual or purported transferee or assignee of any right or interest of a buyer, a purchaser, or a lessee.

(b) The court in an action under subdivision (a) may award actual damages; equitable relief, including, but not limited to, an injunction and restitution of money and property; punitive damages; reasonable attorney's fees and costs; and any other relief which the court deems proper.

(c) As used in this section, the following terms have the following meanings:

(1) "Buyer" has the meaning set forth in subdivision (c) of Section 2981.

(2) "Conditional sale contract" has the meaning set forth in subdivision (a) of Section 2981. Notwithstanding subdivision (k) of Section 2981, "conditional sale contract" includes any contract for the sale or bailment of a motor vehicle between a buyer and a seller primarily for business or commercial purposes.

(3) "Direct loan agreement" means an agreement between a lender and a purchaser whereby the lender has advanced funds pursuant to a loan secured by the motor vehicle which the purchaser has purchased.

(4) "Lease contract" means a lease contract between a lessor and lessee as this term and these parties are defined in Section 2985.7. Notwithstanding subdivision (d) of Section 2985.7, "lease contract" includes a lease for business or commercial purposes.

(5) "Motor vehicle" means any vehicle required to be registered under the Vehicle Code.

(6) "Person" means an individual, company, firm, association, partnership, trust, corporation, limited liability company, or other legal entity.

(7) "Purchaser" has the meaning set forth in subdivision (33) of Section 1201 of the Commercial Code.

(8) "Security agreement" and "secured party" have the meanings set forth, respectively, in paragraphs (73) and (72) of subdivision (a) of Section 9102 of the Commercial Code. "Security interest" has the meaning set forth in subdivision (37) of Section 1201 of the Commercial Code.

(9) "Seller" has the meaning set forth in subdivision (b) of Section 2981, and includes the present holder of the conditional sale contract.

(d) The rights and remedies provided in this section are in addition to any other rights and remedies provided by law.

(Amended Sec. 8.5, Ch. 991, Stats. 1999. Effective January 1, 2000. Operative July 1, 2001.)

CODE OF CIVIL PROCEDURE

Suspension of Privilege to Operate Motor Vehicle for Failing to Satisfy Judgment

116.870. Sections 16250 to 16381, inclusive, of the Vehicle Code, regarding the suspension of the judgment debtor's privilege to operate a motor vehicle for failing to satisfy a judgment, apply if the judgment (1) was for damage to property in excess of seven hundred fifty dollars ($750) or for bodily injury to, or death of, a person in any amount, and (2) resulted from the operation of a motor vehicle upon a California highway by the defendant, or by any other person for whose conduct the defendant was liable, unless the liability resulted from the defendant's signing the application of a minor for a driver's license.

(Amended Sec. 1, Ch. 451, Stats. 2003. Effective January 1, 2004.)

116.880. (a) If the judgment (1) was for seven hundred fifty dollars ($750) or less, (2) resulted from a motor vehicle accident occurring on a California highway caused by the defendant"s operation of a motor vehicle, and (3) has remained unsatisfied for more than 90 days after the judgment became final, the judgment creditor may file with the Department of Motor Vehicles a notice requesting a suspension of the judgment debtor"s privilege to operate a motor vehicle.

(b) The notice shall state that the judgment has not been satisfied, and shall be accompanied by (1) a fee set by the department, (2) the judgment of the court determining that the judgment resulted from a motor vehicle accident occurring on a California highway caused by the judgment debtor"s operation of a motor vehicle, and (3) a declaration that the judgment has not been satisfied. The fee shall be used by the department to finance the costs of administering this section and may not exceed the department"s actual costs.

(c) Upon receipt of a notice, the department shall attempt to notify the judgment debtor by telephone, if possible, otherwise by certified mail, that the judgment debtor"s privilege to operate a motor vehicle will be suspended for a period of 90 days, beginning 20 days after receipt of notice by the department from the judgment creditor, unless satisfactory proof, as provided in subdivision (e), is provided to the department before that date.

(d) At the time the notice is filed, the department shall give the judgment creditor a copy of the notice that shall indicate the filing fee paid by the judgment creditor, and shall include a space to be signed by the judgment creditor acknowledging payment of the judgment by the judgment debtor. The judgment creditor shall mail or deliver a signed copy of the acknowledgment to the judgment debtor once the judgment is satisfied.

(e) The department shall terminate the suspension, or the suspension proceedings, upon the occurrence of one or more of the following:

(1) Receipt of proof that the judgment has been satisfied, either (A) by a copy of the notice required by this section signed by the judgment creditor acknowledging satisfaction of the judgment, or (B) by a declaration of the judgment debtor stating that the judgment has been satisfied.

(2) Receipt of proof that the judgment debtor is complying with a court-ordered payment schedule.

(3) Proof that the judgment debtor had insurance covering the accident sufficient to satisfy the judgment.

(4) A deposit with the department of the amount of the unsatisfied judgment, if the judgment debtor presents proof, satisfactory to the department, of inability to locate the judgment creditor.

(5) At the end of 90 days.

(f) When the suspension has been terminated under subdivision (e), the action is final and may not be reinstituted. Whenever the suspension is terminated, Section 14904 of the Vehicle Code shall apply. Money deposited with the department under this section shall be handled in the same manner as money deposited under subdivision (d) of Section 16377 of the Vehicle Code.

(g) A public agency is not liable for an injury caused by the suspension, termination of suspension, or the failure to suspend a person"s privilege to operate a motor vehicle as authorized by this section.

(Amended Sec. 2, Ch. 451, Stats. 2003. Effective January 1, 2004.)

Source Lists of Jurors

204.7. (a) Source lists of jurors shall identify persons who reside in the county, and who are 18 years of age or older, shall include those who are registered voters, and to the extent that systems for producing jury lists can be practically modified, without significant cost, shall also include those whose names appear on a list of licensed drivers or identification cardholders provided by the Department of Motor Vehicles pursuant to subdivision (b). Qualified jury lists and master jury lists derived from the source lists shall be prepared so as to reasonably minimize duplication of names.

(b) Upon written request by the jury commissioner of a county, the Director of Motor Vehicles shall furnish the current source list of the names and addresses of persons residing in the county who are age 18 years or older and are holders of a current driver's license or identification card issued pursuant to Article 3 (commencing with Section 12800) and Article 5 (commencing with Section 13000) of Chapter 1 of Division 6 of the Vehicle Code. The conditions under which such lists shall be compiled semiannually shall be determined by the director. This service shall be provided by the Department of Motor Vehicles pursuant to Section 1812 of the Vehicle Code. The jury commissioner shall not disclose the information furnished by the Department of Motor Vehicles pursuant to this section to any person, organization, or agency for any use other than the selection of trial jurors.

(Amended Ch. 425, Stats. 1983. Effective January 1, 1984.)

Attachment of Vehicle or Vessel

488.385. (a) To attach a vehicle or vessel for which a certificate of ownership has been issued by the Department of Motor Vehicles, or a mobilehome or commercial coach for which a certificate of title has been issued by the Department of Housing and Community Development, which is equipment of a going business in the possession or under the control of the defendant, the levying officer shall file with the appropriate department a notice of attachment, in the form prescribed by the appropriate department, which shall contain all of the following:

(1) The name and mailing address of the plaintiff.

(2) The name and last known mailing address of the defendant.

(3) The title of the court where the action is pending and the cause and number of the action.

(4) A description of the specific property attached.

(5) A statement that the plaintiff has acquired an attachment lien on the specific property of the defendant.

(b) Upon presentation of a notice of attachment, notice of extension, or notice of release under this section for filing and tender of the filing fee to the appropriate department, the notice shall be filed and indexed. The fee for filing and indexing the notice is fifteen dollars ($15).

(c) Upon the request of any person, the department shall issue its certificate showing whether there is on file in that department on the date and hour stated therein any notice of attachment filed against the property of a particular person named in the request. If a notice of attachment is on file, the certificate shall state the date and hour of filing of each such notice of attachment and any notice affecting any such notice of attachment and the name and address of the plaintiff. The fee for the certificate issued pursuant to this subdivision is fifteen dollars ($15). Upon request, the department shall furnish a copy of any notice of attachment or notice affecting a notice of attachment for a fee of one dollar ($1) per page.

(d) If property subject to an attachment lien under this section becomes a fixture (as defined in paragraph (41) of subdivision (a) of Section 9102 of the Commercial Code), the attachment lien under this section is extinguished.

(Amended Sec. 1, Ch. 719, Stats. 2003. Effective January 1, 2004.)

CONSTITUTION OF THE STATE OF CALIFORNIA

(Selected Sections of Article XIX)

Use of Fuel Taxes

SECTION 1. Revenues from taxes imposed by the state on motor vehicle fuels for use in motor vehicles upon public streets and highways, over and above the costs of collection and any refunds authorized by law, shall be used for the following purposes:

(a) The research, planning, construction, improvement, maintenance, and operation of public streets and highways (and their related public facilities for nonmotorized traffic), including the mitigation of their environmental effects, the payment for property taken or damaged for such purposes, and the administrative costs necessarily incurred in the foregoing purposes.

(b) The research, planning, construction, and improvement of exclusive public mass transit guideways (and their related fixed facilities), including the mitigation of their environmental effects, the payment for property taken or damaged for such purposes, the administrative costs necessarily incurred in the foregoing purposes, and the maintenance of the structures and the immediate right-of-way for the public mass transit guideways, but excluding the maintenance and operating costs for mass transit power systems and mass transit passenger facilities, vehicles, equipment, and services.

(New section adopted June 4, 1974.)

Use of Motor Vehicle Fees and Taxes

SEC. 2. Revenues from fees and taxes imposed by the state upon vehicles or their use or operation, over and above the costs of collection and any refunds authorized by law, shall be used for the following purposes:

(a) The state administration and enforcement of laws regulating the use, operation, or registration of vehicles used upon the public streets and highways of this state, including the enforcement of traffic and vehicles laws by state agencies and the mitigation of the environmental effects of motor vehicle operation due to air and sound emissions.

(b) The purposes specified in Section 1 of this article.

(New section adopted June 4, 1974.)

Scope of Article

SEC. 7. This article shall not affect or apply to fees or taxes imposed pursuant to the Sales and Use Tax Law or the Vehicle License Fee Law, and all amendments and additions now or hereafter made to such statutes.

(New section adopted June 4, 1974.)

EDUCATION CODE

Driver Education and Training

35210. The governing board of a school district maintaining a high school or high schools, a county superintendent of schools, the California Youth Authority, and the State Department of Education who maintain courses in driver education and automobile driver training may insure against any liability arising out of the use of motor vehicles in connection with such courses.

(Repealed and added Ch. 1010, Stats. 1976.)

35211. The governing board of any school district maintaining a course of automobile driver training shall advise the parents or guardians or persons having custody of pupils of the district participating in automobile driver training courses under the jurisdiction of, or sponsored or controlled by, the district, who have signed the statement required by Section 12650 of the Vehicle Code or an application for a driver's license under Section 17701 of the Vehicle Code, of each of the following:

(a) Any civil liability of the minor which will be imposed on the parent, guardian, or other person by reason of such minor operating a motor vehicle.

(b) The insurance coverage carried by the school district, with respect to the use of motor vehicles in connection with such courses, specifically including any limitations of such coverage which limit such coverage to an amount less than the liability imposed on the parent, guardian, or other person, or which limit the nature of such coverage to exclude any activity or situation included within the liability so imposed.

(Repealed and added Ch. 1010, Stats. 1976.)

38047.6. The State Board of Education shall adopt regulations to require a passenger in a school pupil activity bus equipped with passenger restraint systems in accordance with Section 27316.5 of the Vehicle Code to use a passenger restraint system so that the passenger is properly restrained by that system.

(Added Sec. 1, Ch. 360, Stats. 2002. Effective January 1, 2003.)

39800.5. (a) Any school district and any owner or operator of a private school that provides transportation for pupils that owns, leases, or otherwise has possession or control of a 15-passenger van, may not, on or after January 1, 2005, authorize the operation of that van for the purpose of transporting passengers unless the person driving or otherwise operating that van has both of the following:

(1) A valid class B driver's license, as provided in Division 6 (commencing with Section 12500) of the Vehicle Code, issued by the Department of Motor Vehicles.

(2) An endorsement for operating a passenger transportation vehicle, as provided in Article 6 (commencing with Section 15275) of Chapter 7 of Division 6 of the Vehicle Code, issued by the Department of Motor Vehicles.

(b) (1) Except as provided in paragraph (2), for purposes of this section, a "15-passenger van" means any van manufactured to accommodate 15 passengers, including the driver, regardless of whether that van has been altered to accommodate fewer than 15 passengers.

(2) For purposes of this section, a "15-passenger van" does not mean a 15-passenger van with dual rear wheels that has a gross weight rating equal to, or greater than, 11,500 pounds.

(Added Sec. 2, Ch. 559, Stats. 2003. Effective January 1, 2004.)

Schoolbus Regulations

39831. The State Board of Education shall adopt reasonable regulations relating to the use of schoolbuses by school districts and others. Such regulations shall not include the safe operation of schoolbuses which regulations shall be adopted instead by the Department of the California Highway Patrol pursuant to Section 34500 of the Vehicle Code.

The Department of the California Highway Patrol shall adopt regulations relating to the safe operation of schoolbuses which shall include requiring school district governing boards to include in their schoolbus driver training program, the proper actions to be taken in the event that a schoolbus is hijacked.

(Amended Ch. 147, Stats. 1980. Effective January 1, 1981.)

39831.3. (a) The county superintendent of schools, the superintendent of a school district, or the owner or operator of a private school that provides transportation to or from a school or school activity shall prepare a transportation safety plan containing procedures for school personnel to follow to ensure the safe transport of pupils. The plan shall be revised as required. The plan shall address all of the following:

(1) Determining if pupils require escort pursuant to paragraph (3) of subdivision (c) of Section 22112 of the Vehicle Code.

(2) (A) Procedures for all pupils in prekindergarten, kindergarten, and grades 1 to 8, inclusive, to follow as they board and exit the appropriate schoolbus at each pupil's schoolbus stop.

(B) Nothing in this paragraph requires a county superintendent of schools, the superintendent of a school district, or the owner or operator of a private school that provides transportation to or from a school or school activity, to use the services of an onboard schoolbus monitor, in addition to the driver, to carry out the purposes of this paragraph.

(3) Boarding and exiting a schoolbus at a school or other trip destination.

(b) A current copy of a plan prepared pursuant to subdivision (a) shall be retained by each school subject to the plan and made available upon request to an officer of the Department of the California Highway Patrol.

(Added Sec. 2, Ch. 739, Stats. 1997. Effective January 1, 1998.)

Specialized Vehicle Driver Training Courses

40080. (a) This article governs the minimum training required for drivers to obtain or renew an endorsement or certificate described in Section 12517, 12519, or 12804.6 of the Vehicle Code.

(b) As used in this article, "department" means the State Department of Education.

(Added Ch. 1136, Stats. 1989. Operative July 1, 1990.)

40081. (a) The department shall develop or approve courses for training school pupil activity bus (SPAB), transit bus, schoolbus, and farm labor vehicle drivers that will provide them with the skills and knowledge necessary to prepare them for certification pursuant to Sections 12517, 12519, and 12804.6 of the Vehicle Code. The department shall seek the advice and assistance of the Department of Motor Vehicles and the Department of the California Highway Patrol in developing or approving those courses.

(b) The department shall train or approve the necessary instructional personnel to conduct the driver training courses. For all schoolbus and school pupil activity bus (SPAB) driver instructor training, the department shall provide for and approve the course outline and lesson plans used in the course. For transit bus and farm labor vehicle driver training, the department shall approve the course outline and lesson plans used in the course.

(c) All courses of study and training activities required by this article shall be approved by the department and given by, or in the presence of, an instructor in possession of a valid school pupil activity bus (SPAB), transit bus, schoolbus, or farm labor vehicle driver instructor certificate of the appropriate class.

(d) As an alternative to subdivisions (a), (b), and (c), instructors who have received a certificate from the Transportation Safety Institute of the United States Department of Transportation indicating that they have completed the Mass Transit Instructor Orientation and Training (Train-the-Trainer) course may approve courses of instruction and train transit bus drivers in order to meet the requirements for certification pursuant to Section 12804.6 of the Vehicle Code.

(Amended Ch. 1243, Stats. 1992. Effective September 30, 1992.)

40082. (a) An original applicant for a certificate to drive a schoolbus, as defined by Section 545 of the Vehicle Code, shall have successfully completed a minimum 40-hour course of instruction. The course shall include at least 20 hours of classroom instruction in, but not limited to, all units of the Instructor's Manual for California's Bus Driver's Training Course. All classroom instruction shall be given by, or in the presence of, a state-certified instructor of the appropriate class. The course shall also include at least 20 hours of applicant behind-the-wheel training in all sections of the Instructor's Behind-the-Wheel Guide for California's Bus Driver's Training Course. Applicant behind-the-wheel training shall include driving vehicles comparable to those vehicles that will be driven by the applicant to transport pupils. All behind-the-wheel training shall be given by a state-certified instructor of the appropriate class or the delegated behind-the-wheel trainer as designated pursuant to Section 40084.5.

(b) Except as provided in subdivision (c), a driver who is holding a driver certificate or endorsement described in Section 40083, and is seeking a schoolbus certificate of the appropriate class, shall have

successfully completed a minimum of five hours of classroom instruction, including, but not limited to, schoolbus laws and regulations, defensive driving, student loading and unloading, and the exceptional child. All classroom instruction shall be given by, or in the presence of, a state- certified instructor of the appropriate class. The driver shall also complete at least three hours of behind-the-wheel training in defensive driving practices, lane control, railroad grade crossing procedures, and student loading and unloading.

(c) A driver who has received training by an instructor who has received a certificate as described in subdivision (d) of Section 40081 may not be certified to drive a schoolbus in the manner described in subdivision (b).

(Added Ch. 1136, Stats. 1989. Operative July 1, 1990.)

40083. An original applicant for an endorsement or certificate to drive any bus defined by Section 546 or 642 of the Vehicle Code shall have successfully completed a minimum 35-hour course of instruction. The course shall include at least 15 hours of classroom instruction, including, but not limited to, all units of the Instructor's Manual for California's Bus Driver's Training Course. All classroom instruction shall be given by, or in the presence of, a state-certified instructor of the appropriate class, except that an instructor who has received a certificate as described in subdivision (d) of Section 40081 may provide the training for an original applicant for an endorsement to drive a bus defined by Section 642 of the Vehicle Code. The course shall also include at least 20 hours of applicant behind- the-wheel training in all sections of the Instructor's Behind-the-Wheel Guide for California's Bus Driver's Training Course. Applicant behind-the-wheel training shall include driving vehicles comparable to those vehicles that will be used to transport passengers. All behind-the-wheel training for a certificate to drive a bus defined by Section 546 of the Vehicle Code shall be given by a state-certified instructor of the appropriate class or the delegated behind-the-wheel trainer as designated pursuant to Section 40084.5. All behind-the-wheel training for an endorsement to drive a bus defined by Section 642 of the Vehicle Code shall be given by a state-certified instructor of the appropriate class or the delegated behind-the- wheel trainer as designated pursuant to Section 40084.5, or the delegated behind-the-wheel trainer as designated by the instructor certified pursuant to subdivision (d) of Section 40081.

(Added Ch. 1136, Stats. 1989. Operative July 1, 1990.)

40084. An original applicant for a certificate to drive a farm labor vehicle shall have successfully completed a minimum 20-hour course of instruction. The course shall include at least 10 hours of classroom instruction, including, but not limited to, all units of the Instructor's Manual for California's Bus Driver's Training Course. All classroom instruction shall be given by, or in the presence of, a state-certified instructor of the appropriate class. The course shall also include at least 10 hours of applicant behind-the-wheel training in all sections of the Instructor's Behind-the-Wheel Guide for California's Bus Driver's Training Course. Applicant behind-the-wheel training shall include driving vehicles comparable to those that will be driven by the applicant to transport farm passengers. All behind-the-wheel training shall be given by a state-certified instructor of the appropriate class or the delegated behind-the-wheel trainer as designated pursuant to Section 40084.5.

(Added Ch. 1136, Stats. 1989. Operative July 1, 1990.)

40084.5. (a) All behind-the-wheel training required to obtain certificates pursuant to Sections 12517 and 12519 of the Vehicle Code shall be performed by a state-certified instructor or by a delegated behind-the-wheel trainer who has been certified or approved by the department to conduct the required training.

(b) A delegated behind-the-wheel trainer is a person selected to assist a state-certified instructor in the behind-the-wheel training of drivers. Selected persons shall be trained by state-certified instructors and approved by the department prior to conducting any behind-the-wheel training. The minimum standards for the selection of a delegated behind-the-wheel trainer are as follows:

(1) One year experience as a driver of the appropriate type and size vehicle immediately preceding the date of selection as a delegated behind-the-wheel trainer.

(2) Possession of the appropriate license, certificates, and endorsements needed to drive and train in a particular type and size vehicle.

(3) A high school diploma or general education development equivalent.

(4) A driving record with no chargeable accidents within the past three years immediately preceding the date of selection.

(5) Successful completion of all training in the latest edition of the Instructor's Behind-the-Wheel Training Guide for California's Bus Driver's Training Course given by, and in the presence of, a state-certified instructor of the appropriate class.

(6) Successful completion of a written assessment test on current laws, regulations, and policies given by, and in the presence of, a state-certified instructor of the appropriate class.

(7) Successful completion of a driving test and a behind-the-wheel training performance test on all phases of behind-the-wheel and vehicle inspection training. The test shall be given by, and in the presence of, a state-certified instructor of the appropriate class.

(c) The state-certified instructor shall train and document the qualifications and competence of each delegated behind-the-wheel trainer to be utilized in training. All training required by this section shall be documented on the State Department of Education Training Certificate T-01, and signed by a state-certified school pupil activity bus (SPAB), transit bus, schoolbus, or farm labor vehicle driver instructor of the appropriate class, and by the delegated behind-the-wheel trainer. The signatures shall certify that the instruction was given to, and received by, the delegated behind-the-wheel trainer and that the delegated behind-the-wheel trainer displayed a level of competency necessary to train drivers to drive authorized vehicles in a safe and competent manner. The completed State Department of Education Training Certificate T-01 shall be submitted to the department in Sacramento, along with all other required documents, when requesting approval of a delegated behind-the-wheel trainer.

(d) The department may disapprove the eligibility of a delegated behind-the-wheel trainer for any of the following causes:

(1) The state-certified instructor authorizing the competency of the delegated behind-the-wheel trainer has requested disapproval.

(2) The employer of the delegated behind-the-wheel trainer has requested disapproval.

(3) The delegated behind-the-wheel trainer has voluntarily requested disapproval.

(4) The delegated behind-the-wheel trainer failed to comply with Section 40087.

(5) The delegated behind-the-wheel trainer failed to comply with Section 40084.5.

(6) The delegated behind-the-wheel trainer does not possess a valid driver's license, appropriate endorsements, or special driver's certificate of the appropriate class.

(7) The delegated behind-the-wheel trainer's driver's license or special driver's certificate has been suspended or revoked.

(e) A delegated behind-the-wheel trainer may be limited in behind-the-wheel training as determined by the department.

(Amended Ch. 1220, Stats. 1994. Effective September 30, 1994.)

40085. Applicants seeking to renew a certificate to drive a schoolbus as defined in Section 545 of the Vehicle Code or a school pupil activity bus as defined in Section 546 of the Vehicle Code shall have successfully completed at least 10 hours of original or renewal classroom instruction, or behind-the-wheel or in-service training during each 12 months of certificate validity. In-service training credit may be given by a state- certified driver instructor of the appropriate class to an applicant for attending or participating in appropriate driver training workshops, driver safety meetings, driver safety conferences, and other activities directly related to passenger safety and driver training. During the last 12 months of the special driver certificate validity, the 10 hours required shall consist of classroom instruction covering, but not limited to, current laws and regulations, defensive driving, accident prevention, emergency procedures, and passenger loading and unloading. Failure to successfully complete the required training during any 12-month period of certificate validity is cause for the Department of Motor Vehicles to cancel the busdriver certificate. All training required by Section 40089 may be accepted in lieu of the requirements of this section.

(Added Ch. 1136, Stats. 1989. Operative July 1, 1990.)

40085.5. Applicants seeking to renew an endorsement to drive a transit bus as defined in Section 642 of the Vehicle Code shall have successfully completed at least eight hours of original or renewal classroom instruction, or behind-the-wheel or in-service training during each 12 months of certificate validity. In-service training credit may be given by a state-certified driver instructor of the appropriate class, or an instructor certified pursuant to subdivision (d) of Section 40081, to an applicant for attending or participating in

appropriate driver training workshops, driver safety meetings, driver safety conferences, and other activities directly related to passenger safety and driver training. During the last 12 months of the endorsement validity, the eight hours required shall consist of classroom instruction covering, but not limited to, current laws and regulations, defensive driving, accident prevention, emergency procedures, and passenger loading and unloading. Failure to successfully complete the required training during any 12-month period of certificate validity is cause for the Department of Motor Vehicles to cancel the busdriver endorsement. All training required by Section 40089 may be accepted in lieu of the requirements of this section.

(Added Ch. 1136, Stats. 1989. Operative July 1, 1990.)

40086. Applicants seeking to renew a certificate to drive a farm labor vehicle shall have successfully completed two hours of classroom instruction for each 12 months of certificate validity covering, but not limited to, current laws and regulations, accident prevention, and defensive driving. Failure to successfully complete the required training during any 12-month period of certificate validity is cause for the Department of Motor Vehicles to cancel the farm labor vehicle driver license or certificate. All training required in Section 40089 may be accepted in lieu of the requirements of this section.

(Added Ch. 1136, Stats. 1989. Operative July 1, 1990.)

40087. (a) Except as provided in subdivision (b), driver training required by this article shall be properly documented on the State Department of Education Training Certificate T-01, and signed by a state-certified school pupil activity bus (SPAB), transit bus, schoolbus, or farm labor vehicle driver instructor of the appropriate class, and by the driver or applicant. The signatures certify that the instruction was given to, and received by, the applicant or driver, and that the applicant or driver displayed a level of competency necessary to drive the vehicle in a safe and competent manner. The applicant or driver shall present the completed State Department of Education Training Certificate T-01, to the examining state agency when applying for an endorsement or certificate; or, for renewal of an endorsement or certificate.

(b) Driver training provided by an instructor certified pursuant to subdivision (d) of Section 40081 shall be documented on a form developed by the Department of Motor Vehicles, with the consultation of the department. The form shall be signed by the instructor and by the applicant or driver. The signatures certify that the instruction was given to, and received by, the applicant or driver, and that the applicant or driver displayed a level of competency necessary to drive the vehicle in a safe and competent manner. The applicant or driver shall present the completed form to the Department of Motor Vehicles when applying for an endorsement or for renewal of an endorsement.

(Added Ch. 1136, Stats. 1989. Operative July 1, 1990.)

40088. (a) An applicant for a school pupil activity bus (SPAB), transit bus, schoolbus, or farm labor vehicle driver instructor certificate shall successfully complete the appropriate instructor course given or approved by the department.

(b) An applicant for the course shall possess:

(1) A valid driver's license and endorsement valid for driving the vehicles for which the driver instructor rating is sought.

(2) A certificate or endorsement valid for driving the vehicles for which the driver instructor rating is sought.

(3) Five years of experience as a driver in the appropriate vehicle category, or two years experience of that driving experience and three years equivalent experience driving vehicles that require a class A or B driver's license.

(4) A high school diploma or General Education Development (GED) equivalent.

(5) A driving record with no chargeable accidents within the past three years preceding the date of application for the instructor certificate.

The department may waive any or all of the requirements of this subdivision as it determines is necessary to ensure that there are an adequate number of state-certified instructors in the state.

(c) (1) A state-certified schoolbus driver instructor of the appropriate class may instruct all applicants for a schoolbus, school pupil activity bus (SPAB), transit bus, or farm labor vehicle driver's certificate.

(2) A state-certified school pupil activity bus (SPAB) driver instructor of the appropriate class may instruct all applicants for a school pupil activity bus (SPAB), transit bus, or farm labor vehicle driver's certificate, but not a schoolbus certificate.

(3) A state-certified transit bus instructor of the appropriate class may instruct all applicants for a transit bus or farm labor driver's certificate, but not a school pupil activity bus (SPAB) or a schoolbus certificate.

(4) A state-certified farm labor vehicle driver instructor may instruct applicants only for a certificate to drive a farm labor vehicle.

(d) A school pupil activity bus (SPAB), transit bus, schoolbus, or farm labor vehicle driver instructor certificate shall be valid until suspended, revoked, or canceled if it is accompanied by a valid driver's license and a special driver's certificate or valid driver's license and endorsement of the appropriate class or is limited to classroom or in-service training only.

(e) The department may suspend or revoke a school pupil activity bus (SPAB), transit bus, schoolbus, or farm labor vehicle driver instructor certificate for any of the following causes:

(1) The certificate holder failed to comply with Section 40087.

(2) The certificate holder failed to comply with Section 40084.5.

(3) The certificate holder has committed an act listed in Section 13369 of the Vehicle Code or Section 13370 of that code.

(f) The department shall revoke a schoolbus, school pupil activity bus (SPAB), transit bus, or farm labor vehicle driver instructor certificate if the certificate holder falsified a State Department of Education Training Certificate T-01, T-02, or T-03.

(g) The department may cancel the driver instructor certificate for any of the following causes:

(1) The certificate holder has voluntarily requested cancellation.

(2) The certificate holder has his or her driving privilege suspended or revoked.

(3) The certificate holder has failed to meet the provisions required for retention of the driver instructor certificate. This includes failure to meet the instructor training requirements prescribed by Section 40089.

(4) The certificate holder does not possess a valid driver's license, endorsement, or special driver's certificate of the appropriate class.

(h) The department shall by regulation adopt an instructor certificate appeals procedure for subdivisions (e), (f), and (g).

(i) The Department of Motor Vehicles or the Department of the California Highway Patrol may disallow the driver training documentation provided pursuant to Section 40087 signed by any driver instructor certified pursuant to Section 40081 if either of those departments finds that the instructor's certificate would have been suspended, revoked, or canceled for any of the reasons designated in subdivision (e), (f), or (g).

(Amended Ch. 1220, Stats. 1994. Effective September 30, 1994.)

40089. (a) A school pupil activity bus (SPAB), transit bus, schoolbus, or farm labor vehicle driver instructor with no instructional limitations shall conduct at least 20 hours of instruction each 12 months that includes at least 10 hours of behind-the-wheel and 10 hours of classroom training, which need not be given in a single session. A school pupil activity bus (SPAB), transit bus, schoolbus, or farm labor vehicle driver instructor limited to either classroom or behind-the-wheel training only shall conduct at least 10 hours of instruction each 12 months that includes at least 10 hours of behind-the-wheel or classroom training depending on the limitation. The training need not be given in a single session. A school pupil activity bus (SPAB), transit bus, schoolbus, or farm labor vehicle driver instructor limited to in-service training only shall conduct at least 10 hours of in-service training each 12 months. All school pupil activity bus (SPAB), transit bus, schoolbus, and farm labor vehicle driver instructor training conducted by department staff may be accepted in lieu of the requirements of this subdivision.

(b) A school pupil activity bus (SPAB), transit bus, schoolbus, or farm labor vehicle driver instructor may be limited to classroom instruction, behind-the-wheel training or in-service training only, and prohibited from recording, documenting, or signing for any training required by this article, as determined by the department.

(c) A school pupil activity bus (SPAB), transit bus, schoolbus, or farm labor vehicle driver instructor shall be limited to behind-the-wheel instruction in vehicles that the instructor is qualified to drive.

(d) All school pupil activity bus (SPAB), transit bus, schoolbus, or farm labor vehicle driver instructor training required by subdivision (a) shall be properly documented on a State Department of Education Training Certificate T-01, and signed by the state-certified instructor at the end of each 12-month training period. The signature certifies that the required instruction was conducted during the 12-month

training period. Upon renewal of the instructor driver's license, endorsement, or certificate, the completed instructor training record, recorded on the State Department of Education Training Certificate, shall be submitted to the department in Sacramento.

(Amended Ch. 1220, Stats. 1994. Effective September 30, 1994.)

41904. The Superintendent of Public Instruction may promote and direct the establishment and maintenance of courses of instruction in automobile driver education and driver training in the public schools. For this purpose, the superintendent may employ professional and other personnel as necessary to give full effect to this article. There is hereby established within the State Department of Education a unit for driver instruction to be comprised of three consultants and necessary support staff. All necessary costs and expenses incurred for purposes of this section shall be provided for from funds that may be appropriated by the Legislature from the Driver Training Penalty Assessment Fund.

(Amended Ch. 924, Stats. 1989. Operative July 1, 1990.)

41912. (a) The Legislature finds and declares all of the following:

(1) To assist in reducing the number of fatalities involving youthful drivers, a minimum standard of six hours of behind-the-wheel driver training conducted by a public or private secondary school, or by a qualified instructor of a licensed private driving school, shall be established.

(2) According to the National Highway Traffic Safety Administration, traffic crashes are the number one killer of teenagers. Per mile driven, teenage drivers are involved in accidents four times as often as adults.

(3) According to the Center for Disease Control and Prevention, motor vehicle crashes are the leading cause of death among youths 16 to 20 years of age. Nationwide, about 6,000 youths 16 to 20 years of age, die each year in traffic accidents. Teenage drivers represent about 7 percent of the country's population, but account for about 17 percent of the victims of fatal crashes.

(4) According to the Department of Motor Vehicles, during 1993, 4,163 people were killed and 315,184 were injured in traffic accidents across the state.

(5) According to the National Safety Council, driver error causes 69 percent of all automobile collisions. Annually, 11,900,000 accidents occur nationwide resulting in 2,000,000 injuries and 42,000 fatalities. Automobile accidents cost one hundred sixty-seven billion dollars ($167,000,000,000) annually.

(6) The Department of Motor Vehicles has introduced the first major revision of the driver's license test since 1933, in recognition of a need to require first-time drivers to pass an examination representative of the complex driving conditions confronting motorists throughout the state. A minimum of six hours of behind-the-wheel driver training conducted by a public or private secondary school, or by a qualified instructor of a licensed private driving school, is required to prepare the first-time driver under 18 years of age to pass this examination.

(b) The expressed purpose of the Legislature is that highway accidents can and must be reduced through the education and training of drivers prior to licensing, and that this instruction properly belongs in the high school curriculum on a basis of having comparable standards of instruction, quality, teacher-pupil ratio and class scheduling in driver education as in other courses in the regular academic program. Only through a high quality program of driver instruction can the greatest potential in traffic accident prevention be realized. Further, the state has a responsibility to share in the reasonable costs of providing those courses.

(Amended Sec. 3, Ch. 1045, Stats. 1996. Effective September 30, 1996.)

41913. Notwithstanding any other provision of law, the governing board of any school district maintaining secondary schools, may, subject to Sections 41913 to 41919, inclusive, enter into contracts with approved private driver training schools to provide to any or all of the eligible enrolled students of the district, the automobile driver training as provided pursuant to Section 51852. No such contract shall be valid unless approved by the governing board. The driver training provided under contract by an approved private driver training school shall be under the exclusive control and management of the governing board of the school district and shall comply with all rules and regulations of the State Board of Education relating to driver training offered by the public schools, except that a driver training instructor of the approved private driver training school shall not be required to possess any teaching credential or certification document of any kind except as required by the Driving School Department of the Department of Motor Vehicles. Nothing in this section shall prohibit the governing board from entering into contracts with more than one approved private driver training school and apportioning students among such schools.

Upon approval of the contract, the governing board shall transmit a copy of the signed contract to the State Department of Education.

(Amended Ch. 652, Stats. 1983. Effective January 1, 1984.)

41914. As used in this article, an "approved private driver training school" is one which:

(a) Has a valid license issued by the Department of Motor Vehicles pursuant to Chapter 1 (commencing with Section 11100) of Division 5 of the Vehicle Code.

(b) Maintains at all times limits of liability insurance established by the State Superintendent of Public Instruction equal to that required of the contracting school district.

(c) Provides, for such automobile driving instruction, dual-control automobiles approved by the Department of Motor Vehicles.

(d) Meets such other requirements as shall be established by the Superintendent of Public Instruction.

(Repealed and added Ch. 1010, Stats. 1976. Operative April 30, 1977.)

41918. Notwithstanding the provisions of Section 41907, a regular employee of a contracting approved private driver training school shall be a qualified instructor for automobile driver training provided that:

(a) He holds a valid driver instructor license issued by the Department of Motor Vehicles, and

(b) He has completed the driver instructor course required by the Department of Motor Vehicles.

(Repealed and added Ch. 1010, Stats. 1976. Operative April 30, 1977.)

41919. No approved private driver training school may enter into a contract pursuant to this article unless it has, at the time of entering into the contract, been operating in the State of California for at least 24 consecutive months.

A contracting approved private driver training school shall provide instruction pursuant to one of the plans authorized pursuant to Section 51852.

(Repealed and added Ch. 1010, Stats. 1976. Operative April 30, 1977.)

49307. Any person who shall disregard any traffic signal or direction given by a member of a school safety patrol, shall be guilty of an infraction, and subject to the penalties provided in Section 42001 of the Vehicle Code.

(Amended Ch. 626, Stats. 1978. Effective January 1, 1979.)

Courses of Instruction–Driver Education and Training

51220. The adopted course of study for grades 7 to 12, inclusive, shall offer courses in the following areas of study:

(j) Automobile driver education, designed to develop a knowledge of the provisions of the Vehicle Code and other laws of this state relating to the operation of motor vehicles, a proper acceptance of personal responsibility in traffic, a true appreciation of the causes, seriousness and consequences of traffic accidents, and to develop the knowledge and attitudes necessary for the safe operation of motor vehicles. A course in automobile driver education shall include education in the safe operation of motorcycles.

(Amended Ch. 589, Stats. 1993. Effective January 1, 1994.)

(NOTE: Only subsection (j) is relevant to Driver Education and Training.)

51220.1. In addition to the requirements specified in subdivision (j) of Section 51220, automobile driver education shall be designed to develop a knowledge of the dangers involved in consuming alcohol or drugs in connection with the operation of a motor vehicle.

(Added Ch. 1455, Stats. 1985. Effective January 1, 1986.)

51220.4. For purposes of subdivision (j) of Section 51220, a course in automobile driver education shall include, but is not limited to, education regarding the rights and duties of a motorist as those rights and duties pertain to pedestrians and the rights and duties of pedestrians as those rights and duties pertain to traffic laws and traffic safety.

(Added Sec. 3.1, Ch. 833, Stats. 2000. Effective January 1, 2001.)

51220.6. ***(a) Notwithstanding any other provision of law, a private school is not required to offer courses in driver education or driver training.***

(b) This section shall not be construed to require a private school to offer automobile driver education that meets the requirements of this chapter unless the private school requests the Department of Motor Vehicles to issue a certificate of satisfactory completion form.

(c) For purposes of subdivision (j) of Section 51220, Section 51220.1, and subparagraph (A) of paragraph (3) of subdivision (a) of Section 12814.6 of the Vehicle Code, the satisfactory completion by a pupil of an Internet-based, correspondence, or other distance-learning course in automobile driver education offered by a private secondary school satisfies the driver education instructional requirements of those provisions and the Department of Motor Vehicles shall issue certificates of satisfactory completion forms if all of the following conditions are met:

(1) The private secondary school has a current affidavit or statement on file in compliance with Section 33190.

(2) The private secondary school utilizes the Department of Motor Vehicles' driver education curriculum developed under subdivision (f) of former Section 12814.8 of the Vehicle Code for providing the automobile driver education course, or the private school certifies to the Department of Motor Vehicles that the curriculum used is educationally equivalent to the Department of Motor Vehicles' curriculum.

(3) All certificates issued to a private school by the Department of Motor Vehicles shall remain under the exclusive control of that school. A school shall only issue a certificate to a student who is enrolled in the private school, and has successfully completed a driver education course offered by that school.

(4) All course curriculums contain the school name, school address, and telephone number.

(5) Internet web pages or CD courses are reasonably secure and protected from unauthorized access, modifications, or extraction of confidential data.

(6) Test questions for Internet and CD courses are secured and randomly extracted to safeguard from copying.

(Repealed Sec. 1 and added Sec. 2, Ch. 314, Stats. 2005. Effective January 1, 2006.)

51850. The governing board of a school district maintaining a high school or high schools, a county superintendent of schools, and the California Youth Authority and State Department of Education in providing programs of high school education, may prescribe regulations determining who can profit by and who shall receive instruction in automobile driver training; provided, however, that no pupil shall be permitted to enroll in automobile driver training unless such pupil is presently enrolled in a course of instruction in automobile driver education, or has satisfactorily completed such course. The regulations shall be subject to such standards for driver education and driver training as may be prescribed by the State Board of Education. Where driver training is provided, such course of instruction shall be given in one or more of the grades 9, 10, 11, or 12. Pupils shall be at least 15 years and six months of age at the time of completion of a driver training course and not more than 18 years of age when they enroll in a driver training course.

(Repealed and added Ch. 1010, Stats. 1976. Operative April 30, 1977.)

51851. A course of instruction in automobile driver education shall:

(a) Be of at least 21/2 semester periods and shall be taught by a qualified instructor;

(b) Provide the opportunity for students to take driver education within the regular schoolday, and within the regular academic year, as defined in Section 37250. Additional classes may be offered at the discretion of the local school district governing board, the county superintendent of schools, California Youth Authority, and the State Department of Education, to accommodate those who have failed or those who cannot otherwise enroll in the regular schoolday program. For purposes of this section, the regular schoolday shall be that time during which classes are maintained in the courses of instruction provided for in Chapter 1 (commencing with Section 51000), Chapter 2 (commencing with Section 51510), Article 3 (commencing with Section 51520), Article 4 (commencing with Section 51530), Article 6 (commencing with Section 51550) of Chapter 4 of this part, Article 11 (commencing with Section 51820) of this chapter, Chapter 2 (commencing with Section 58400) of Part 31 of this division; and

(c) Be completed by the student within the academic year or summer session in which it was begun.

(Amended Ch. 1573, Stats. 1969. Effective November 10, 1969.)

51852. A course of instruction in the laboratory phase of driver education shall include, for each student enrolled in the class, instruction under one of the following plans:

(a) Plan One. A minimum of 12 hours allocated as follows:

(1) A minimum of six hours of on-street behind-the-wheel practice driving instruction in a dual-control automobile with a qualified instructor.

(2) A minimum of six hours in a dual-control automobile with a qualified instructor for the purposes of observation. Practice driving on an off-street multiple-car driving range approved by the department under the supervision of a qualified instructor may be substituted for all or part of the observation time.

(b) Plan Two. A minimum of 24 hours allocated as follows:

(1) Three hours of on-street behind-the-wheel practice driving instruction in a dual-control automobile with a qualified instructor.

(2) Six hours in a dual-control automobile with a qualified instructor for the purposes of observation. Practice driving on an off-street multiple-car driving range approved by the department under the supervision of a qualified instructor may be substituted for all or part of the observation time.

(3) Twelve hours of instruction by a qualified instructor in a driving simulator approved by the department.

(4) At least three additional hours of instruction specified in one or more of paragraphs 1 to 3, inclusive, of this subdivision.

(c) Plan Three. A minimum of 24 hours allocated as follows:

(1) Three hours of on-street behind-the-wheel practice driving instruction in a dual-control automobile with a qualified instructor.

(2) Six hours in a dual-control automobile with a qualified instructor for the purpose of observation.

(3) Twelve hours of instruction by a qualified instructor on an off-street multiple-car driving range.

(4) At least three additional hours of instruction specified in one or more of paragraphs 1 to 3, inclusive, of this subdivision.

(d) Plan Four. A minimum of 24 hours allocated as follows:

(1) Three hours of on-street behind-the-wheel practice driving instruction in a dual-control automobile with a qualified instructor.

(2) Three hours in a dual-control automobile with a qualified instructor for the purpose of observation.

(3) Eighteen hours of instruction by a qualified instructor in a driving simulator approved by the department and on an off-street multiple-car driving range. The governing board of the district shall establish the proportion of time to be utilized in simulators and on the off-street multiple-car driving range.

(e) Plan Five.

(1) Competency-based driver training which means a program in which each student receives a minimum of three hours of on-street behind-the-wheel practice driving instruction, a minimum of one hour of behind-the-wheel pretesting, and a minimum of one hour of behind-the-wheel posttesting. The pretest and posttest for public school programs shall include basic skill evaluation by the instructor, as adopted by the Superintendent of Public Instruction pursuant to paragraph (2). The one hour posttest shall be conducted by an instructor other than the instructor who conducted the three hours of behind-the-wheel practice driving instruction or the pretest. Each student shall receive at least one additional hour of either behind-the-wheel practice driving instruction or observation time.

(2) The Superintendent of Public Instruction shall adopt rules, regulations, and basic skill requirements for public school programs pursuant to this subdivision.

(3) Local district superintendents offering this program shall annually report to the Superintendent of Public Instruction, on a form developed by the State Department of Education, on student completion of instruction pursuant to paragraph (1).

(f) For purposes of this section, one hour means 60 minutes including passing time.

(g) Any deviation from the standard use of a simulator or off-street multiple-car driving range, or both, shall have prior approval by the Department of Education before the school district, county superintendent of schools, the California Youth Authority, or the Department of Education can be reimbursed for the students trained.

(h) Nothing in this section shall be construed to direct or restrict courses of instruction in the classroom phase or the laboratory phase of driver education offered by private elementary and secondary schools or to require the use of credentialed or certified instructors in

the laboratory phase of driver education offered by private elementary and secondary schools, except that each student enrolled in a course shall satisfactorily complete a minimum of six hours of on-street behind-the-wheel driving instruction. This section shall not be construed to limit eligibility for a provisional driver's license for pupils who have completed driver education or driver training courses offered in private elementary or secondary schools.

(i) For the purposes of this section, private elementary or secondary schools are those subject to the provisions of Sections 33190 and 48222.

(j) This section shall become operative on July 1, 2004.

(Added Sec. 1.5, Ch. 774, Stats. 2002. Operative July 1, 2004.)

Article 21.5. The California Memorial Scholarship Program
(Added Sec. 1, Ch. 38, Stats. 2002. Effective May 13, 2002.)

70010. (a) The California Memorial Scholarship Program is hereby established. The program shall be administered by the Scholarshare Investment Board established pursuant to Section 69984. The program shall be funded by the California Memorial Scholarship Fund established pursuant to Section 5066 of the Vehicle Code.

(b) The purpose of the program is to provide scholarships for surviving dependents of California residents killed as a result of injuries sustained during the terrorist attacks of September 11, 2001. These scholarships shall be used to defray the costs incurred by participants in the program at institutions of higher education. The Legislature finds and declares that the scholarships provided by this act are funded by voluntary donations provided by California vehicle owners.

(Amended Sec. 78, Ch. 62, Stats. 2003. Effective January 1, 2004.)

70010.7. (a) The Department of Motor Vehicles shall deposit the proceeds of the sale of California memorial license plates into the fund in accordance with paragraph (2) of subdivision (c) of Section 5066 of the Vehicle Code. When a participation agreement is executed pursuant to Section 70011, the board shall establish an account within the fund for the benefit of a person eligible for the program. The total amount of moneys in the fund shall, at all times, be evenly divided among the accounts that are in existence at that time until the board has transferred five thousand dollars ($5,000) from the fund into each account. When five thousand dollars ($5,000) has been transferred by the board into each account, all revenues remaining in the fund shall be deposited into the Antiterrorism Fund created by paragraph (1) of subdivision (c) of Section 5066 of the Vehicle Code and distributed as provided in that paragraph. A participant or other entity may also deposit funds into an account, and these amounts shall not count towards the five thousand dollar ($5,000) limit.

(b) Moneys in the fund, including moneys in the accounts, may be invested and reinvested by the board, or may be invested in whole or in part under contract with private money managers, as determined by the board. The interest earned shall accrue to the accounts.

(c) The board shall establish within the fund an administrative account, the amount deposited in which may not exceed 5 percent of the total amount of moneys in the fund. Funds in the administrative account may be used, upon appropriation in the annual Budget Act or in another statute, for the administrative costs of the board in administering the program.

(d) No moneys from the fund may be encumbered, and no distribution may be made from any account in the fund, unless and until an appropriation authorizing that encumbrance or distribution is made in the annual Budget Act or in another statute.

(Added Sec. 1, Ch. 38, Stats. 2002. Effective May 13, 2002.)

Schoolbus Defined

82321. A schoolbus is any motor vehicle designed, used, or maintained for the transportation of any school pupil at or below the 12th-grade level to or from a public or private school or to or from public or private school activities, except the following:

(a) A motor vehicle of any type carrying only members of the household of the owner thereof.

(b) A motortruck transporting pupils who are seated only in the passenger compartment, and a passenger vehicle designed for and when actually carrying not more than 10 persons, including the driver, except any such vehicle or truck transporting two or more handicapped pupils confined to wheelchairs.

(c) A motor vehicle operated by a common carrier, or by and under exclusive jurisdiction of a publicly owned or operated transit system, only during the time it is on a scheduled run and is available to the general public or on a run scheduled in response to a request from a handicapped pupil confined to a wheelchair, or from a parent of the handicapped pupil, for transportation to or from nonschool activities; provided, that the motor vehicle is designed for and actually carries not more than 16 persons and the driver, is available to eligible persons of the general public, and the school does not provide the requested transportation service.

(d) A school pupil activity bus as defined in Section 82321.1.

(e) A motor vehicle operated by a carrier licensed by the Interstate Commerce Commission which is transporting pupils on a school activity entering or returning to the state from another state or country.

(f) Notwithstanding any other provisions of this section, the governing board of a district maintaining a community college may, by resolution, designate any motor vehicle operated by or for the district, a schoolbus within the meaning of this section, if it is primarily used for the transportation of community college students to or from a public community college or to or from public community college activities. The designation shall not be effective until written notification thereof has been filed with the Department of the California Highway Patrol.

(g) A state-owned motor vehicle being operated by a state employee upon the driveways, paths, parking facilities, or grounds specified in Section 21113 of the Vehicle Code that are under the control of a state hospital under the jurisdiction of the State Department of Developmental Services where the posted speed limit is not more than 20 miles per hour. The motor vehicle may also be operated for a distance of not more than one-quarter mile upon a public street or highway that runs through the grounds of a state hospital under the jurisdiction of the State Department of Developmental Services, if the posted speed limit on the public street or highway is not more than 25 miles per hour and if all traffic is regulated by posted stop signs or official traffic control signals at the points of entry and exit by the motor vehicle.

(Amended Ch. 135, Stats. 1984. Effective May 31, 1984.)

Truck Driving Schools

94925. No person shall own or operate a school, or give instruction, for the driving of motortrucks of three or more axles that are more than 6,000 pounds unladen weight unless all of the following conditions are met:

(a) The school or instruction has been approved by the council.

(b) The school, at the time of application and thereafter, maintains both of the following:

(1) Proof of compliance with liability insurance requirements that are the same as those established by the Department of Motor Vehicles for a driving school owner, pursuant to Section 11103 of the Vehicle Code, unless the council deems it necessary to establish a higher level of insurance coverage.

(2) A satisfactory safety rating by the Department of the California Highway Patrol is established pursuant to Division 14.8 (commencing with Section 34500) of the Vehicle Code.

(c) The school, at all times, shall maintain the vehicles used in driver training in safe mechanical condition. The school shall keep all records concerning the maintenance of the vehicles.

(d) The driving instructors meet the requirements set forth in Section 11104 of the Vehicle Code.

(e) Any other terms and conditions required by the council to protect the public safety or to meet the requirements of this chapter.

(Added Sec. 4, Ch. 78, Stats. 1997. Effective January 1, 1998.)

FISH AND GAME CODE

Use of Lights; Sniperscopes

2005. It is unlawful to use an artificial light to assist in the taking of game birds, game mammals, or game fish, except that this section shall not apply to sport fishing in ocean waters or other waters where night fishing is permitted if the lights are not used on or as part of the fishing tackle, commercial fishing, nor to the taking of mammals the taking of which is governed by Article 2 (commencing with Section 4180) of Chapter 3, Part 3, Division 4.

It is unlawful for any person, or one or more persons, to throw or cast the rays of any spotlight, headlight, or other artificial light on any highway or in any field, woodland, or forest where game mammals, fur-bearing mammals, or nongame mammals are commonly found, or upon any game mammal, fur-bearing mammal, or nongame mammal, while having in his possession or under his control any firearm or weapon with which such mammal could be killed, even though the mammal is not killed, injured, shot at, or otherwise pursued.

It is unlawful to use or possess at any time any infrared or similar light used in connection with an electronic viewing device sometimes designated as a sniperscope to assist in the taking of birds, mammals, amphibia, or fish.

The provisions of this section shall not apply to the following:

(a) To the use of a hand held flashlight no larger, nor emitting more light, than a two-cell, three-volt flashlight, provided such light is not affixed in any way to a weapon, or to the use of a lamp or lantern which does not cast a directional beam of light.

(b) In the case of headlights of a motor vehicle operated in a usual manner and there is no attempt or intent to locate a game mammal, fur-bearing mammal, or nongame mammal.

(c) To the owner, or his employee, of land devoted to the agricultural industry while on such land, or land controlled by such an owner and in connection with such agricultural industry.

(d) To such other uses as the commission may authorize by regulation.

No person shall be arrested for violation of this section except by a peace officer.

(Amended Ch. 1028, Stats. 1977. Effective January 1, 1978.)

Loaded Rifle or Shotgun in Vehicle

2006. It is unlawful to possess a loaded rifle or shotgun in any vehicle or conveyance or its attachments which is standing on or along or is being driven on or along any public highway or other way open to the public.

A rifle or shotgun shall be deemed to be loaded for the purposes of this section when there is an unexpended cartridge or shell in the firing chamber but not when the only cartridges or shells are in the magazine.

The provisions of this section shall not apply to peace officers or members of the armed forces of this State or the United States, while on duty or going to or returning from duty.

(Ch. 456, Stats. 1957.)

Shooting From Vehicles

3002. It is unlawful to shoot at any game bird or mammal, including a marine mammal as defined in Section 4500, from a powerboat, sailboat, motor vehicle, or airplane.

(Amended Ch. 786, Stats. 1975. Effective January 1, 1976.)

Illegal Herding with Motorized Vehicles

3003.5. It is unlawful to pursue, drive, or herd any bird or mammal with any motorized water, land, or air vehicle, including, but not limited to, a motor vehicle, airplane, powerboat, or snowmobile, except in any of the following circumstances:

(a) On private property by the landowner or tenant thereof to drive or herd game mammals for the purpose of preventing damage by such mammals to private property.

(b) Pursuant to a permit from the department issued under such regulations as the commission may prescribe.

(c) In the pursuit of agriculture.

(Amended Ch. 1343, Stats. 1971. Effective March 4, 1972.)

FOOD AND AGRICULTURAL CODE

Certificate of Inspection

5341.5. (a) Every operator of a motor vehicle entering the state with a shipment of any agricultural commodity shall cause the vehicle and the shipment to be inspected, and shall obtain a certificate of inspection, at the plant quarantine inspection station nearest the point of entry into the state.

(b) Failure to obtain the required certificate of inspection shall subject the operator of the vehicle and the registered owner of the vehicle, if a different person or legal entity, to separate civil penalties of not more than one thousand dollars ($1,000) for each violation. In determining the severity of the penalty to be imposed, the court shall consider any prior violations of the same nature within the preceding 24 months, the commodity being transported, and any evidence, including deviation from normal and usual routes, that the operator of the vehicle intentionally avoided inspection.

(c) Inspection shall not be required when the operator of the vehicle would be required to travel a distance of 15 miles or more from normal and usual routes for the particular trip to obtain the required inspection and certification, or when weather conditions or road closures on normal and usual routes prevent travel to the nearest plant quarantine inspection station.

(d) Violation of this section is a separate offense from violation of any other provision of this code and proceedings under this section shall not be deemed to prevent separate proceedings for any other offense.

(e) Proceedings under this section may be brought by the director or, with the director's concurrence, by the district attorney of the county in which the violation occurred. The civil penalty shall be awarded to the agency which brings the enforcement action for use by that agency in enforcing the provisions of this code.

(f) The director may, by regulation or executive order, as the director deems advisable, permit exceptions for certain commodities, areas, and times consistent with the purposes of this division, patterns of local traffic near border areas, and availability of inspection stations.

(g) Persons holding a valid permit to transport cattle pursuant to Section 21067 are exempt from this section.

(Added Ch. 64, Stats. 1987. Effective January 1, 1988.)

Plant Quarantine and Pest Control

5344. It is unlawful for the operator of any vehicle to fail to stop the vehicle at an inspection station or upon demand of a clearly identified plant quarantine officer, or officers authorized pursuant to Section 5348 to cite persons for violations committed pursuant to this article, for the purpose of determining whether any quarantine which is established pursuant to any provision of this division is being violated.

(Amended Ch. 994, Stats. 1983. Effective January 1, 1984.)

5345. It is unlawful for any person to operate upon any highway in this state any vehicle which, in violation of Section 5344, was not stopped as required by that section, if the person who is operating such vehicle knows of such violation of Section 5344. The violation of this section continues unless and until one of the following occurs:

(a) A period of 24 hours has elapsed following the violation of Section 5344.

(b) The operator who violated Section 5344 has been apprehended and the vehicle which is involved has been inspected and released from quarantine by any authorized state plant quarantine officer. An operator who is so apprehended does not violate this section by reason of operating the vehicle en route to the closest inspection station immediately following his apprehension for violation of Section 5344, nor does any other person, who operates the vehicle for such purpose, violate this section.

6303. (a) It is unlawful for any person, except under written permission from a plant quarantine officer or under his specific direction, to move any lot or shipment of plants or other things to which a warning tag or notice has been affixed pursuant to this division, or to remove, alter, destroy, deface, or mutilate any such warning tag or notice.

(b) If any shipment of plants or things is allowed to transit the state or transit to a given destination county under a quarantine warning-hold notice, the shipment of plants or things shall not be diverted to another destination without the written permission of the director or the commissioner of the destination county.

(c) Diversion of a shipment as described in subdivision (b) is unlawful.

(d) If a shipment of plants or things requires a state or county plant quarantine officer to be present at the destination to supervise the unloading, inspection, or treatment of a quarantine shipment, the director or commissioner, as the case may be, may charge the shipper or receiver a service fee for the cost of the services. Service fees shall be determined based on the director or commissioner's costs for the services rendered.

(Amended Ch. 1056, Stats. 1988. Effective January 1, 1989.)

6306. Unless otherwise permitted by law, any person who willfully and knowingly imports into, or who willfully and knowingly transports or ships within, this state, a Mediterranean fruit fly is guilty of a felony.

(Added Ch. 167, Stats. 1990. Effective June 22, 1990.)

Animals at Large

16902. A person that owns or controls the possession of any livestock shall not willfully or negligently permit any of the livestock to stray upon, or remain unaccompanied by a person in charge or control of the livestock upon, a public highway, if both sides of the highway are adjoined by property which is separated from the highway by a fence, wall, hedge, sidewalk, curb, lawn, or building.

16903. It is unlawful for any person to drive any livestock upon, over, or across any public highway between the hours of sunset and sunrise unless he keeps a sufficient number of herders on continual duty to open the road so as to permit the passage of vehicles.

16904. In any civil action which is brought by the owner, driver, or occupant of a motor vehicle, or by their personal representatives or assignees, or by the owner of livestock, for damages which are caused by collision between any motor vehicle and any domestic animal on a highway, there is no presumption or inference that the collision was due to negligence on behalf of the owner or the person in possession of the animal.

GOVERNMENT CODE

1040. (a) The Department of Motor Vehicles may require fingerprint images and associated information from an employee or prospective employee whose duties include or would include any of the following:

(1) Access to confidential information in a database of the department.

(2) Access to confidential or sensitive information provided by a member of the public including, but not limited to, a credit card number or social security account number.

(3) Access to cash, checks, or other accountable items.

(4) Responsibility for the development or maintenance of a critical automated system.

(5) Making decisions regarding the issuance or denial of a license, endorsement, certificate, or indicia.

(b) The fingerprint images and associated information of an employee or prospective employee of the Department of Motor Vehicles whose duties include or would include those specified in subdivision (a), or any person who assumes those duties, may be furnished to the Department of Justice for the purpose of obtaining information as to the existence and nature of a record of state or federal level convictions and state or federal level arrests for which the Department of Justice establishes that the applicant was released on bail or on his or her own recognizance pending trial. Requests for federal level criminal offender record information, received by the Department of Justice, pursuant to this section, shall be forwarded to the Federal Bureau of Investigation by the Department of Justice.

(c) The Department of Justice shall respond to the Department of Motor Vehicles with information as provided under subdivision (p) of Section 11105 of the Penal Code.

(d) The Department of Motor Vehicles shall request subsequent arrest notification, from the Department of Justice, as provided under Section 11105.2 of the Penal Code, for applicants described in subdivision (a).

(e) The Department of Justice may assess a fee sufficient to cover the processing costs required under this section, as authorized pursuant to subdivision (e) of Section 11105 of the Penal Code.

(f) This section does not apply to an employee of the Department of Motor Vehicles whose appointment occurred prior to January 1, 2005.

(g) The Department of Motor Vehicles may investigate the criminal history of persons applying for employment in order to make a final determination of that person's fitness to perform duties that would include any of those specified in subdivision (a).

(Added Sec. 1, Ch. 419, Stats. 2004. Effective January 1, 2005.)

Payment to Public Agencies by Check

6157. (a) The state, and each city, whether general law or chartered, county, and district, each subdivision, department, board, commission, body, or agency of the foregoing, shall accept personal checks drawn in its favor or in favor of a designated official thereof, in payment for any license, permit, or fee, or in payment of any obligation owing to the public agency or trust deposit, if the person issuing the check furnishes to the person authorized to receive payment satisfactory proof of residence in this state and if the personal check is drawn on a banking institution located in this state.

(b) If any personal check offered in payment pursuant to this section is returned without payment, for any reason, a reasonable charge for the returned check, not to exceed the actual costs incurred by the public agency, may be imposed to recover the public agencys processing and collection costs. This charge may be added to, and become part of, any underlying obligation other than an obligation which constitutes a lien on real property, and a different method of payment for that payment and future payments by this person may be prescribed.

(c) The acceptance of a personal check pursuant to this section constitutes payment of the obligation owed to the payee public agency to the extent of the amount of the check as of the date of acceptance when, but not before, the check is duly paid.

(d) The provisions in subdivision (b) prohibiting a returned check charge being added to, and becoming a part of, an obligation which constitutes a lien on real property do not apply to obligations under the Veterans Farm and Home Purchase Act of 1974 (Article 3.1 (commencing with Section 987.50) of Chapter 6 of Division 4 of the Military and Veterans Code).

(Amended Ch. 233, Stats. 1992. Effective January 1, 1993.)

6158. Notwithstanding the provisions of Section 1463 of the Penal Code, the charges imposed by a court for a returned check shall be retained by the treasurer of the county in which the court is situated.

(Added Ch. 75, Stats. 1978. Effective January 1, 1979.)

Payment to Public Agencies by Credit Card

6159. (a) As used in this section:

(1) "Credit card" means any card, plate, coupon book, or other credit device existing for the purpose of being used from time to time upon presentation to obtain money, property, labor, or services on credit.

(2) "Card issuer" means any person, or his or her agent, who issues a credit card and purchases credit card drafts.

(3) "Cardholder" means any person to whom a credit card is issued or any person who has agreed with the card issuer to pay obligations arising from the issuance of a credit card to another person.

(4) "Draft purchaser" means any person who purchases credit card drafts.

(b) Subject to subdivision (c), a court, city, county, city and county, or other public agency may authorize the acceptance of a credit card for any of the following:

(1) The payment for the deposit of bail for any offense not declared to be a felony or for any court-ordered fee or fine. Use of a credit card pursuant to this paragraph may include a requirement that the defendant be charged any administrative fee charged by the credit card company for the cost of the credit card transaction.

(2) The payment of a filing fee or other court fee.

(3) The payment of any towage or storage costs for a vehicle that has been removed from a highway, or from public or private property, as a result of parking violations.

(4) The payment of child, family, or spousal support, including reimbursement of public assistance, related fees, costs, or penalties, with the authorization of the cardholder.

(5) The payment for services rendered by any city, county, city and county, or other public agency.

(6) The payment of any fee, charge, or tax due a city, county, city and county, or other public agency.

(c) A court desiring to authorize the use of a credit card pursuant to subdivision (b) shall obtain the approval of the Judicial Council. A city desiring to authorize the use of a credit card pursuant to subdivision (b) shall obtain the approval of its city council. Any other public agency desiring to authorize the use of a credit card pursuant to subdivision (b) shall obtain the approval of the governing body that has fiscal responsibility for that agency. After approval is obtained, a contract may be executed with one or more credit card issuers or draft purchasers. The contract shall provide for:

(1) The respective rights and duties of the court, city, county, city and county, or other public agency and card issuer or draft purchaser regarding the presentment, acceptability, and payment of credit card drafts.

(2) The establishment of a reasonable means by which to facilitate payment settlements.

(3) The payment to the card issuer or draft purchaser of a reasonable fee or discount.

(4) Any other matters appropriately included in contracts with respect to the purchase of credit card drafts as may be agreed upon by the parties to the contract.

(d) The honoring of a credit card pursuant to subdivision (b) hereof constitutes payment of the amount owing to the court, city, county, city and county, or other public agency as of the date the credit card is honored, provided the credit card draft is paid following its due presentment to a card issuer or draft purchaser.

(e) If any credit card draft is not paid following due presentment to a card issuer or draft purchaser or is charged back to the court, city, county, city and county, or other public agency for any reason, any record of payment made by the court, city, or other public agency honoring the credit card shall be void. Any receipt issued in acknowledgment of payment shall also be void. The obligation of the cardholder shall continue as an outstanding obligation as if no payment had been attempted.

(f) Notwithstanding Title 1.3 (commencing with Section 1747) of Part 4 of Division 3 of the Civil Code, a court, city, county, city and county, or any other public agency may impose a fee for the use of a credit card, not to exceed the costs incurred by the agency in providing for payment by credit card. These costs may include, but shall not be limited to, the payment of fees or discounts as specified

in paragraph (3) of subdivision (c). Any fee imposed by a court pursuant to this subdivision shall be approved by the Judicial Council. Any fee imposed by any other public agency pursuant to this subdivision for the use of a credit card shall be approved by the governing body responsible for the fiscal decisions of the public agency.

(g) Fees or discounts provided for under paragraph (3) of subdivision (c) shall be deducted or accounted for prior to any statutory or other distribution of funds received from the card issuer or draft purchaser to the extent not recovered from the cardholder pursuant to subdivision (f).

(h) The Judicial Council may enter into a master agreement with one or more credit card issuers or draft purchasers for the acceptance and payment of credit card drafts received by the courts. Any court may join in any of these master agreements or may enter into a separate agreement with a credit card issuer or draft purchaser.

(Amended Sec. 11.5, Ch. 824, Stats. 2001. Effective January 1, 2002. Supersedes Ch. 108.)

CHAPTER 2.6. STATE PAYMENT CARD ACT

(Amended Sec. 1, Ch. 926, Stats. 1995. Effective January 1, 1996.)

6160. The Legislature finds and declares that there are costs associated with all forms of payment, including cash and checks. The Legislature further finds and declares that by accepting payment by credit card or other payment devices, state agencies will be able to take advantage of new technologies that will improve their efficiency and will increase consumer convenience and choice by providing state consumers with an alternative method of payment.

(Added Sec. 1, Ch. 926, Stats. 1995. Effective January 1, 1996.)

6161. For the purposes of this chapter:

(a) "Cardholder" means a person making a payment to a state agency by credit card or payment device.

(b) "Credit card" shall have the same meaning as provided in subsection (k) of Section 1602 of Title 15 of the United States Code (Section 103(k) of the federal Truth in Lending Act, and regulations promulgated thereunder).

(c) "Director" means the Director of General Services.

(d) "In person" means from one natural person to another who, as an employee or other representative of a state agency, accepts payment and processes the payment according to the procedures of the agency.

(e) "Payment device" shall have the same meaning as the definition of "accepted card or other means of access" set forth in paragraph (1) of Section 1693a of Title 15 of the United States Code (Section 903(1) of the federal Electronic Fund Transfer Act), and for purposes of this chapter shall also include a card that enables a person to pay for transactions through the use of value stored on the card itself.

(f) "Person" means a natural person or an organization, including a corporation, partnership, limited liability company, proprietorship, association, cooperative, estate, trust, or government unit.

(g) "State agency" shall have the same meaning as set forth in Section 11000.

(Added Sec. 1, Ch. 926, Stats. 1995. Effective January 1, 1996.)

6162. (a) Except as provided in Section 6159, the Director of General Services, or his or her designee, may negotiate and enter into any contracts necessary to implement or facilitate the acceptance of credit cards or other payment devices by state agencies. The authority granted to the director pursuant to this section shall include the discretion to negotiate and agree to specific terms applicable to each state agency, including, but not limited to, the terms regarding any payment of fees to third parties for the acceptance of credit cards or other payment devices, types of payments, any limitations on amounts and limits of liabilities that would be eligible for payment by credit card or other payment device, and operational requirements.

(b) The director may negotiate master contracts or other contracts that allow the cost-effective acceptance of payment by credit card or other payment device. Additionally, the director or any state agency negotiating these contracts shall use its best efforts to minimize the financial impact of credit card or other payment device acceptance on the state agency, taxpayers, and the public who use its services.

(c) The director, in consultation with the Director of e-Government, shall take steps to encourage the adoption of standard payment policies and procedures for all state agencies. Furthermore, a state agency may enter into an interagency agreement with another state agency for the purposes of establishing uniform policies and acquiring equipment to support payment by credit card or other payment device.

(Amended Sec. 1, Ch. 427, Stats. 2001. Effective January 1, 2002.)

6163. (a) (1) Except as provided in paragraphs (2) and (3), all state agencies shall accept payment made by means of a credit card or other payment device.

(2) (A) A state agency may request that the director grant an exemption from paragraph (1) if the agency determines that its acceptance of payments by credit card or other payment device would have any of the following results:

(i) It would not be cost-effective.

(ii) It would result in a net additional unfunded cost to the agency.

(iii) It would result in a shortfall of revenues to the State of California.

(B) A request made pursuant to this paragraph shall state the reasons for the agency's determination. The director may request additional information from the requesting agency, and shall approve or deny the exemption request within 60 days of the receipt of all relevant information from the agency. The director also may request that the exemption be renewed on a periodic basis, and that the agency provide a plan for implementing paragraph (1).

(C) In determining cost-effectiveness, an agency may consider more than one year. In determining the cost-effectiveness of accepting payment by credit card and other payment devices, the state agency shall consider all factors relating to costs and savings associated with accepting credit cards and other payment devices. However, an agency may accept payment by credit card or other payment device notwithstanding the cost-effectiveness, if, upon the agency's analysis, the additional level of customer service offered by these payment methods outweighs cost considerations.

(D) "Costs" for the purposes of this subdivision shall include, but not be limited to, the following:

(i) Amounts paid to a third party for accepting the credit card or other payment device.

(ii) Equipment costs, including telephone and maintenance expenses.

(iii) Labor costs of the state agency related to processing payments made by a credit card or other payment device.

(E) "Savings" for the purposes of this subdivision shall include, but not be limited to, the following:

(i) The use of the float by the applicable state agency.

(ii) Reduction in bank fees that would be charged for payments made by cash and checks.

(iii) The costs of handling cash, labor savings, theft or pilferage, reduced storage, and security and transit of handling and holding cash.

(iv) The costs of handling checks.

(v) Dishonored check costs.

(vi) Decreased facility needs.

(vii) Increased collection of mandated payments.

(viii) Increased sales of discretionary goods and services.

(ix) Reduced paperwork.

(x) Fewer in-person transactions, especially with the use of voice response units and kiosks.

(3) Notwithstanding paragraph (1), a state agency shall not accept payment by credit card or other payment device if the state agency is unable to enter into the contracts on terms that are acceptable to the agency, or if the director acting on behalf of the agency is unable to enter into contracts on terms that are acceptable to the director and the agency, as are necessary to enable the agency to accept payment by credit card or other payment device.

(4) If the Franchise Tax Board does not accept payment by credit card or other payment device as a result of this subdivision, then the law regarding credit card payments in existence prior to the effective date of the legislation adding this chapter shall apply to the Franchise Tax Board.

(b) The director may establish procedures to delegate the authority granted under this chapter to other state agencies so that these agencies may enter into contracts for accepting credit cards or other payment devices on behalf of the respective agency.

(c) For entities established under Article VI of the California Constitution, the authority of the director under this chapter shall rest with the administrative director of those entities.

(d) Any agency that intends to accept payment by credit card or other payment device pursuant to a master contract entered into by the director shall transmit a letter of intent so stating to the director.

(Amended Sec. 2, Ch. 427, Stats. 2001. Effective January 1, 2002.)

6164. No officer or employee of a state agency, or other individual, who in the course of his or her employment or duty has or had access to credit card or payment device information provided to the state agency under this chapter shall disclose or make known in any manner information provided under this chapter or use the information for any unauthorized purpose. Any violation of this section shall be a misdemeanor.

(Added Sec. 1, Ch. 926, Stats. 1995. Effective January 1, 1996.)

6165. The Department of General Services and state agencies shall enter into interagency agreements to reimburse the Department of General Services for its costs in entering into contracts pursuant to this chapter.

(Added Sec. 1, Ch. 926, Stats. 1995. Effective January 1, 1996.)

Article 1. General Provisions

Inspection of Public Records

6250. In enacting this chapter, the Legislature, mindful of the right of individuals to privacy, finds and declares that access to information concerning the conduct of the people's business is a fundamental and necessary right of every person in this state.

(Amended Ch. 575, Stats. 1970. Effective November 23, 1970.)

Definitions

6252. As used in this chapter:

(a) "Local agency" includes a county; city, whether general law or chartered; city and county; school district; municipal corporation; district; political subdivision; or any board, commission or agency thereof; other local public agency; or entities that are legislative bodies of a local agency pursuant to subdivisions (c) and (d) of Section 54952.

(b) "Member of the public" means any person, except a member, agent, officer, or employee of a federal, state, or local agency acting within the scope of his or her membership, agency, office, or employment.

(c) "Person" includes any natural person, corporation, partnership, limited liability company, firm, or association.

(d) "Public agency" means any state or local agency.

(e) "Public records" includes any writing containing information relating to the conduct of the public's business prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics. "Public records" in the custody of, or maintained by, the Governor's office means any writing prepared on or after January 6, 1975.

(f) "State agency" means every state office, officer, department, division, bureau, board, and commission or other state body or agency, except those agencies provided for in Article IV (except Section 20 thereof) or Article VI of the California Constitution.

(g) "Writing" means any handwriting, typewriting, printing, photostating, photographing, photocopying, transmitting by electronic mail or facsimile, and every other means of recording upon any tangible thing any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combinations thereof, and any record thereby created, regardless of the manner in which the record has been stored.

(Amended Sec. 1, Ch. 937, Stats. 2004. Effective January 1, 2005.)

6252.5. Notwithstanding the definition of "member of the public" in Section 6252, an elected member or officer of any state or local agency is entitled to access to public records of that agency on the same basis as any other person. Nothing in this section shall limit the ability of the elected members or officers to access public records permitted by law in the administration of their duties.

This section does not constitute a change in, but is declaratory of, existing law.

(Added Sec. 3, Ch. 620, Stats. 1998. Effective January 1, 1999.)

Public Records Open to Inspection

6253. (a) Public records are open to inspection at all times during the office hours of the state or local agency and every person has a right to inspect any public record, except as hereafter provided. Any reasonably segregable portion of a record shall be available for inspection by any person requesting the record after deletion of the portions that are exempted by law.

(b) Except with respect to public records exempt from disclosure by express provisions of law, each state or local agency, upon a request for a copy of records that reasonably describes an identifiable record or records, shall make the records promptly available to any person upon payment of fees covering direct costs of duplication, or a statutory fee if applicable. Upon request, an exact copy shall be provided unless impracticable to do so.

(c) Each agency, upon a request for a copy of records, shall, within 10 days from receipt of the request, determine whether the request, in whole or in part, seeks copies of disclosable public records in the possession of the agency and shall promptly notify the person making the request of the determination and the reasons therefor. In unusual circumstances, the time limit prescribed in this section may be extended by written notice by the head of the agency or his or her designee to the person making the request, setting forth the reasons for the extension and the date on which a determination is expected to be dispatched. No notice shall specify a date that would result in an extension for more than 14 days. When the agency dispatches the determination, and if the agency determines that the request seeks disclosable public records, the agency shall state the estimated date and time when the records will be made available. As used in this section, "unusual circumstances" means the following, but only to the extent reasonably necessary to the proper processing of the particular request:

(1) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request.

(2) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records that are demanded in a single request.

(3) The need for consultation, which shall be conducted with all practicable speed, with another agency having substantial interest in the determination of the request or among two or more components of the agency having substantial subject matter interest therein.

(4) The need to compile data, to write programming language or a computer program, or to construct a computer report to extract data.

(d) Nothing in this chapter shall be construed to permit an agency to delay or obstruct the inspection or copying of public records. The notification of denial of any request for records required by Section 6255 shall set forth the names and titles or positions of each person responsible for the denial.

(e) Except as otherwise prohibited by law, a state or local agency may adopt requirements for itself that allow for faster, more efficient, or greater access to records than prescribed by the minimum standards set forth in this chapter.

(Amended Sec. 2, Ch. 355, Stats. 2001. Effective January 1, 2002.)

6253.1. (a) When a member of the public requests to inspect a public record or obtain a copy of a public record, the public agency, in order to assist the member of the public make a focused and effective request that reasonably describes an identifiable record or records, shall do all of the following, to the extent reasonable under the circumstances:

(1) Assist the member of the public to identify records and information that are responsive to the request or to the purpose of the request, if stated.

(2) Describe the information technology and physical location in which the records exist.

(3) Provide suggestions for overcoming any practical basis for denying access to the records or information sought.

(b) The requirements of paragraph (1) of subdivision (a) shall be deemed to have been satisfied if the public agency is unable to identify the requested information after making a reasonable effort to elicit additional clarifying information from the requester that will help identify the record or records.

(c) The requirements of subdivision (a) are in addition to any action required of a public agency by Section 6253.

(d) This section shall not apply to a request for public records if any of the following applies:

(1) The public agency makes available the requested records pursuant to Section 6253.

(2) The public agency determines that the request should be denied and bases that determination solely on an exemption listed in Section 6254.

(3) The public agency makes available an index of its records.

(Added Sec. 3, Ch. 355, Stats. 2001. Effective January 1, 2002.)

6253.4. (a) Every agency may adopt regulations stating the procedures to be followed when making its records available in accordance with this section.

The following state and local bodies shall establish written guidelines for accessibility of records. A copy of these guidelines shall be posted in a conspicuous public place at the offices of these bodies, and a copy of the guidelines shall be available upon request free of charge to any person requesting that body's records:
Department of Motor Vehicles
Department of Consumer Affairs
Department of Transportation
Department of Real Estate
Department of Corrections
Department of the Youth Authority
Department of Justice
Department of Insurance
Department of Corporations
Secretary of State
State Air Resources Board
Department of Water Resources
Department of Parks and Recreation
San Francisco Bay Conservation and Development Commission
State Board of Equalization
State Department of Health Services
Employment Development Department
State Department of Social Services
State Department of Mental Health
State Department of Developmental Services
State Department of Alcohol and Drug Abuse
Office of Statewide Health Planning and Development
Public Employees' Retirement System
Teachers' Retirement Board
Department of Industrial Relations
Department of General Services
Department of Veterans Affairs
Public Utilities Commission
California Coastal Commission
State Water Resources Control Board
San Francisco Bay Area Rapid Transit District
All regional water quality control boards
Los Angeles County Air Pollution Control District
Bay Area Air Pollution Control District
Golden Gate Bridge, Highway and Transportation District
Department of Toxic Substances Control
Office of Environmental Health Hazard Assessment

(b) Guidelines and regulations adopted pursuant to this section shall be consistent with all other sections of this chapter and shall reflect the intention of the Legislature to make the records accessible to the public. The guidelines and regulations adopted pursuant to this section shall not operate to limit the hours public records are open for inspection as prescribed in Section 6253.

(Amended and Renumbered from 6253 Sec. 4, Ch. 620, Stats. 1998. Effective January 1, 1999.)

6253.9. (a) Unless otherwise prohibited by law, any agency that has information that constitutes an identifiable public record not exempt from disclosure pursuant to this chapter that is in an electronic format shall make that information available in an electronic format when requested by any person and, when applicable, shall comply with the following:

(1) The agency shall make the information available in any electronic format in which it holds the information.

(2) Each agency shall provide a copy of an electronic record in the format requested if the requested format is one that has been used by the agency to create copies for its own use or for provision to other agencies. The cost of duplication shall be limited to the direct cost of producing a copy of a record in an electronic format.

(b) Notwithstanding paragraph (2) of subdivision (a), the requester shall bear the cost of producing a copy of the record, including the cost to construct a record, and the cost of programming and computer services necessary to produce a copy of the record when either of the following applies:

(1) In order to comply with the provisions of subdivision (a), the public agency would be required to produce a copy of an electronic record and the record is one that is produced only at otherwise regularly scheduled intervals.

(2) The request would require data compilation, extraction, or programming to produce the record.

(c) Nothing in this section shall be construed to require the public agency to reconstruct a record in an electronic format if the agency no longer has the record available in an electronic format.

(d) If the request is for information in other than electronic format, and the information also is in electronic format, the agency may inform the requester that the information is available in electronic format.

(e) Nothing in this section shall be construed to permit an agency to make information available only in an electronic format.

(f) Nothing in this section shall be construed to require the public agency to release an electronic record in the electronic form in which it is held by the agency if its release would jeopardize or compromise the security or integrity of the original record or of any proprietary software in which it is maintained.

(g) Nothing in this section shall be construed to permit public access to records held by any agency to which access is otherwise restricted by statute.

(Added Sec. 2, Ch. 982, Stats. 2000. Effective January 1, 2001.)

Exemption of Particular Records

6254. Except as provided in Sections 6254.7 and 6254.13, nothing in this chapter shall be construed to require disclosure of records that are any of the following:

(a) Preliminary drafts, notes, or interagency or intra-agency memoranda that are not retained by the public agency in the ordinary course of business, provided that the public interest in withholding those records clearly outweighs the public interest in disclosure.

(b) Records pertaining to pending litigation to which the public agency is a party, or to claims made pursuant to Division 3.6 (commencing with Section 810), until the pending litigation or claim has been finally adjudicated or otherwise settled.

(c) Personnel, medical, or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy.

(d) Contained in or related to any of the following:

(1) Applications filed with any state agency responsible for the regulation or supervision of the issuance of securities or of financial institutions, including, but not limited to, banks, savings and loan associations, industrial loan companies, credit unions, and insurance companies.

(2) Examination, operating, or condition reports prepared by, on behalf of, or for the use of, any state agency referred to in paragraph (1).

(3) Preliminary drafts, notes, or interagency or intra-agency communications prepared by, on behalf of, or for the use of, any state agency referred to in paragraph (1).

(4) Information received in confidence by any state agency referred to in paragraph (1).

(e) Geological and geophysical data, plant production data, and similar information relating to utility systems development, or market or crop reports, that are obtained in confidence from any person.

(f) Records of complaints to, or investigations conducted by, or records of intelligence information or security procedures of, the office of the Attorney General and the Department of Justice, and any state or local police agency, or any investigatory or security files compiled by any other state or local police agency, or any investigatory or security files compiled by any other state or local agency for correctional, law enforcement, or licensing purposes, except that state and local law enforcement agencies shall disclose the names and addresses of persons involved in, or witnesses other than confidential informants to, the incident, the description of any property involved, the date, time, and location of the incident, all diagrams, statements of the parties involved in the incident, the statements of all witnesses, other than confidential informants, to the victims of an incident, or an authorized representative thereof, an insurance carrier against which a claim has been or might be made, and any person suffering bodily injury or property damage or loss, as the result of the incident caused by arson, burglary, fire, explosion, larceny, robbery, carjacking, vandalism, vehicle theft, or a crime as defined by subdivision (b) of Section 13951, unless the disclosure would endanger the safety of a witness or other person involved in the investigation, or unless disclosure would endanger the successful completion of the investigation or a related investigation. However, nothing in this division shall require the disclosure of that portion of those investigative files that reflect the analysis or conclusions of the investigating officer.

Customer lists provided to a state or local police agency by an alarm or security company at the request of the agency shall be construed to be records subject to this subdivision.

Notwithstanding any other provision of this subdivision, state and local law enforcement agencies shall make public the following information, except to the extent that disclosure of a particular item of information would endanger the safety of a person involved in an investigation or would endanger the successful completion of the investigation or a related investigation:

(1) The full name and occupation of every individual arrested by the agency, the individual's physical description including date of birth, color of eyes and hair, sex, height and weight, the time and date of arrest, the time and date of booking, the location of the arrest, the factual circumstances surrounding the arrest, the amount of bail set, the time and manner of release or the location where the individual is currently being held, and all charges the individual is being held upon, including any outstanding warrants from other jurisdictions and parole or probation holds.

(2) Subject to the restrictions imposed by Section 841.5 of the Penal Code, the time, substance, and location of all complaints or requests for assistance received by the agency and the time and nature of the response thereto, including, to the extent the information regarding crimes alleged or committed or any other incident investigated is recorded, the time, date, and location of occurrence, the time and date of the report, the name and age of the victim, the factual circumstances surrounding the crime or incident, and a general description of any injuries, property, or weapons involved. The name of a victim of any crime defined by Section 220, 261, 261.5, 262, 264, 264.1, 273a, 273d, 273.5, 286, 288, 288a, 289, 422.6, 422.7, 422.75, or 646.9 of the Penal Code may be withheld at the victim's request, or at the request of the victim's parent or guardian if the victim is a minor. When a person is the victim of more than one crime, information disclosing that the person is a victim of a crime defined by Section 220, 261, 261.5, 262, 264, 264.1, 273a, 273d, 286, 288, 288a, 289, 422.6, 422.7, 422.75, or 646.9 of the Penal Code may be deleted at the request of the victim, or the victim's parent or guardian if the victim is a minor, in making the report of the crime, or of any crime or incident accompanying the crime, available to the public in compliance with the requirements of this paragraph.

(3) Subject to the restrictions of Section 841.5 of the Penal Code and this subdivision, the current address of every individual arrested by the agency and the current address of the victim of a crime, where the requester declares under penalty of perjury that the request is made for a scholarly, journalistic, political, or governmental purpose, or that the request is made for investigation purposes by a licensed private investigator as described in Chapter 11.3 (commencing with Section 7512) of Division 3 of the Business and Professions Code, except that the address of the victim of any crime defined by Section 220, 261, 261.5, 262, 264, 264.1, 273a, 273d, 273.5, 286, 288, 288a, 289, 422.6, 422.7, 422.75, or 646.9 of the Penal Code shall remain confidential. Address information obtained pursuant to this paragraph may not be used directly or indirectly, or furnished to another, to sell a product or service to any individual or group of individuals, and the requester shall execute a declaration to that effect under penalty of perjury. Nothing in this paragraph shall be construed to prohibit or limit a scholarly, journalistic, political, or government use of address information obtained pursuant to this paragraph.

(g) Test questions, scoring keys, and other examination data used to administer a licensing examination, examination for employment, or academic examination, except as provided for in Chapter 3 (commencing with Section 99150) of Part 65 of the Education Code.

(h) The contents of real estate appraisals or engineering or feasibility estimates and evaluations made for or by the state or local agency relative to the acquisition of property, or to prospective public supply and construction contracts, until all of the property has been acquired or all of the contract agreement obtained. However, the law of eminent domain shall not be affected by this provision.

(i) Information required from any taxpayer in connection with the collection of local taxes that is received in confidence and the disclosure of the information to other persons would result in unfair competitive disadvantage to the person supplying the information.

(j) Library circulation records kept for the purpose of identifying the borrower of items available in libraries, and library and museum materials made or acquired and presented solely for reference or exhibition purposes. The exemption in this subdivision shall not apply to records of fines imposed on the borrowers.

(k) Records, the disclosure of which is exempted or prohibited pursuant to federal or state law, including, but not limited to, provisions of the Evidence Code relating to privilege.

(*l*) Correspondence of and to the Governor or employees of the Governor's office or in the custody of or maintained by the Governor's Legal Affairs Secretary, provided that public records shall not be transferred to the custody of the Governor's Legal Affairs Secretary to evade the disclosure provisions of this chapter.

(m) In the custody of or maintained by the Legislative Counsel, except those records in the public database maintained by the Legislative Counsel that are described in Section 10248.

(n) Statements of personal worth or personal financial data required by a licensing agency and filed by an applicant with the licensing agency to establish his or her personal qualification for the license, certificate, or permit applied for.

(o) Financial data contained in applications for financing under Division 27 (commencing with Section 44500) of the Health and Safety Code, where an authorized officer of the California Pollution Control Financing Authority determines that disclosure of the financial data would be competitively injurious to the applicant and the data is required in order to obtain guarantees from the United States Small Business Administration. The California Pollution Control Financing Authority shall adopt rules for review of individual requests for confidentiality under this section and for making available to the public those portions of an application that are subject to disclosure under this chapter.

(p) Records of state agencies related to activities governed by Chapter 10.3 (commencing with Section 3512), Chapter 10.5 (commencing with Section 3525), and Chapter 12 (commencing with Section 3560) of Division 4 of Title 1, that reveal a state agency's deliberative processes, impressions, evaluations, opinions, recommendations, meeting minutes, research, work products, theories, or strategy, or that provide instruction, advice, or training to employees who do not have full collective bargaining and representation rights under these chapters. Nothing in this subdivision shall be construed to limit the disclosure duties of a state agency with respect to any other records relating to the activities governed by the employee relations acts referred to in this subdivision.

(q) Records of state agencies related to activities governed by Article 2.6 (commencing with Section 14081), Article 2.8 (commencing with Section 14087.5), and Article 2.91 (commencing with Section 14089) of Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code, that reveal the special negotiator's deliberative processes, discussions, communications, or any other portion of the negotiations with providers of health care services, impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy, or that provide instruction, advice, or training to employees.

Except for the portion of a contract containing the rates of payment, contracts for inpatient services entered into pursuant to these articles, on or after April 1, 1984, shall be open to inspection one year after they are fully executed. In the event that a contract for inpatient services that is entered into prior to April 1, 1984, is amended on or after April 1, 1984, the amendment, except for any portion containing the rates of payment, shall be open to inspection one year after it is fully executed. If the California Medical Assistance Commission enters into contracts with health care providers for other than inpatient hospital services, those contracts shall be open to inspection one year after they are fully executed.

Three years after a contract or amendment is open to inspection under this subdivision, the portion of the contract or amendment containing the rates of payment shall be open to inspection.

Notwithstanding any other provision of law, the entire contract or amendment shall be open to inspection by the Joint Legislative Audit Committee and the Legislative Analyst's Office. The committee and that office shall maintain the confidentiality of the contracts and amendments until the time a contract or amendment is fully open to inspection by the public.

(r) Records of Native American graves, cemeteries, and sacred places maintained by the Native American Heritage Commission.

(s) A final accreditation report of the Joint Commission on Accreditation of Hospitals that has been transmitted to the State Department of Health Services pursuant to subdivision (b) of Section 1282 of the Health and Safety Code.

(t) Records of a local hospital district, formed pursuant to Division 23 (commencing with Section 32000) of the Health and Safety Code, or the records of a municipal hospital, formed pursuant to Article 7 (commencing with Section 37600) or Article 8 (commencing with Section 37650) of Chapter 5 of Division 3 of Title 4 of this code, that relate to any contract with an insurer or nonprofit hospital service plan for inpatient or outpatient services for alternative rates pursuant to Section 10133 or 11512 of the Insurance Code. However, the record shall be open to inspection within one year after the contract is fully executed.

(u) (1) Information contained in applications for licenses to carry firearms issued pursuant to Section 12050 of the Penal Code by the sheriff of a county or the chief or other head of a municipal police department that indicates when or where the applicant is vulnerable to attack or that concerns the applicant's medical or psychological history or that of members of his or her family.

(2) The home address and telephone number of peace officers, judges, court commissioners, and magistrates that are set forth in applications for licenses to carry firearms issued pursuant to Section 12050 of the Penal Code by the sheriff of a county or the chief or other head of a municipal police department.

(3) The home address and telephone number of peace officers, judges, court commissioners, and magistrates that are set forth in licenses to carry firearms issued pursuant to Section 12050 of the Penal Code by the sheriff of a county or the chief or other head of a municipal police department.

(v) (1) Records of the Major Risk Medical Insurance Program related to activities governed by Part 6.3 (commencing with Section 12695) and Part 6.5 (commencing with Section 12700) of Division 2 of the Insurance Code, and that reveal the deliberative processes, discussions, communications, or any other portion of the negotiations with health plans, or the impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of the board or its staff, or records that provide instructions, advice, or training to employees.

(2) (A) Except for the portion of a contract that contains the rates of payment, contracts for health coverage entered into pursuant to Part 6.3 (commencing with Section 12695) or Part 6.5 (commencing with Section 12700) of Division 2 of the Insurance Code, on or after July 1, 1991, shall be open to inspection one year after they have been fully executed.

(B) In the event that a contract for health coverage that is entered into prior to July 1, 1991, is amended on or after July 1, 1991, the amendment, except for any portion containing the rates of payment, shall be open to inspection one year after the amendment has been fully executed.

(3) Three years after a contract or amendment is open to inspection pursuant to this subdivision, the portion of the contract or amendment containing the rates of payment shall be open to inspection.

(4) Notwithstanding any other provision of law, the entire contract or amendments to a contract shall be open to inspection by the Joint Legislative Audit Committee. The committee shall maintain the confidentiality of the contracts and amendments thereto, until the contract or amendments to a contract is open to inspection pursuant to paragraph (3).

(w) (1) Records of the Major Risk Medical Insurance Program related to activities governed by Chapter 14 (commencing with Section 10700) of Part 2 of Division 2 of the Insurance Code, and that reveal the deliberative processes, discussions, communications, or any other portion of the negotiations with health plans, or the impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of the board or its staff, or records that provide instructions, advice, or training to employees.

(2) Except for the portion of a contract that contains the rates of payment, contracts for health coverage entered into pursuant to Chapter 14 (commencing with Section 10700) of Part 2 of Division 2 of the Insurance Code, on or after January 1, 1993, shall be open to inspection one year after they have been fully executed.

(3) Notwithstanding any other provision of law, the entire contract or amendments to a contract shall be open to inspection by the Joint Legislative Audit Committee. The committee shall maintain the confidentiality of the contracts and amendments thereto, until the contract or amendments to a contract is open to inspection pursuant to paragraph (2).

(x) Financial data contained in applications for registration, or registration renewal, as a service contractor filed with the Director of the Department of Consumer Affairs pursuant to Chapter 20 (commencing with Section 9800) of Division 3 of the Business and Professions Code, for the purpose of establishing the service contractor's net worth, or financial data regarding the funded accounts held in escrow for service contracts held in force in this state by a service contractor.

(y) (1) Records of the Managed Risk Medical Insurance Board related to activities governed by Part 6.2 (commencing with Section 12693) or Part 6.4 (commencing with Section 12699.50) of Division 2 of the Insurance Code, and that reveal the deliberative processes, discussions, communications, or any other portion of the negotiations with health plans, or the impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of the board or its staff, or records that provide instructions, advice, or training to employees.

(2) (A) Except for the portion of a contract that contains the rates of payment, contracts entered into pursuant to Part 6.2 (commencing with Section 12693) or Part 6.4 (commencing with Section 12699.50) of Division 2 of the Insurance Code, on or after January 1, 1998, shall be open to inspection one year after they have been fully executed.

(B) In the event that a contract entered into pursuant to Part 6.2 (commencing with Section 12693) or Part 6.4 (commencing with Section 12699.50) of Division 2 of the Insurance Code is amended, the amendment shall be open to inspection one year after the amendment has been fully executed.

(3) Three years after a contract or amendment is open to inspection pursuant to this subdivision, the portion of the contract or amendment containing the rates of payment shall be open to inspection.

(4) Notwithstanding any other provision of law, the entire contract or amendments to a contract shall be open to inspection by the Joint Legislative Audit Committee. The committee shall maintain the confidentiality of the contracts and amendments thereto until the contract or amendments to a contract are open to inspection pursuant to paragraph (2) or (3).

(5) The exemption from disclosure provided pursuant to this subdivision for the contracts, deliberative processes, discussions, communications, negotiations with health plans, impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of the board or its staff shall also apply to the contracts, deliberative processes, discussions, communications, negotiations with health plans, impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of applicants pursuant to Part 6.4 (commencing with Section 12699.50) of Division 2 of the Insurance Code.

(z) Records obtained pursuant to paragraph (2) of subdivision (c) of Section 2891.1 of the Public Utilities Code.

(aa) A document prepared by or for a state or local agency that assesses its vulnerability to terrorist attack or other criminal acts intended to disrupt the public agency's operations and that is for distribution or consideration in a closed session.

(bb) (1) Records of the Managed Risk Medical Insurance Board related to activities governed by Part 8.7 (commencing with Section 2120) of Division 2 of the Labor Code, and that reveal the deliberative processes, discussions, communications, or any other portion of the negotiations with entities contracting or seeking to contract with the board, or the impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of the board or its staff, or records that provide instructions, advice, or training to employees.

(2) (A) Except for the portion of a contract that contains the rates of payment, contracts entered into pursuant to Part 8.7 (commencing with Section 2120) of Division 2 of the Labor Code on or after January 1, 2004, shall be open to inspection one year after they have been fully executed.

(B) In the event that a contract entered into pursuant to Part 8.7 (commencing with Section 2120) of Division 2 of the Labor Code is amended, the amendment shall be open to inspection one year after the amendment has been fully executed.

(3) Three years after a contract or amendment is open to inspection pursuant to this subdivision, the portion of the contract or amendment containing the rates of payment shall be open to inspection.

(4) Notwithstanding any other provision of law, the entire contract or amendments to a contract shall be open to inspection by the Joint Legislative Audit Committee. The committee shall maintain the confidentiality of the contracts and amendments thereto until the contract or amendments to a contract are open to inspection pursuant to paragraph (2) or (3).

(cc) All information provided to the Secretary of State by a person for the purpose of registration in the Advance Health Care Directive Registry, except that those records shall be released at the request of a health care provider, a public guardian, or the registrant's legal representative.

Nothing in this section prevents any agency from opening its records concerning the administration of the agency to public inspection, unless disclosure is otherwise prohibited by law.

Nothing in this section prevents any health facility from disclosing to a certified bargaining agent relevant financing information pursuant to Section 8 of the National Labor Relations Act.

(Amended Sec. 2.5, Ch. 937, Stats. 2004. Effective January 1, 2005.)

Disclosure of Residence Address

6254.1. (a) Except as provided in Section 6254.7, nothing in this chapter requires disclosure of records that are the residence address of any person contained in the records of the Department of Housing and Community Development, if the person has requested confidentiality of that information, in accordance with Section 18081 of the Health and Safety Code.

(b) Nothing in this chapter requires the disclosure of the residence or mailing address of any person in any record of the Department of Motor Vehicles except in accordance with Section 1808.21 of the Vehicle Code.

(c) Nothing in this chapter requires the disclosure of the results of a test undertaken pursuant to Section 12804.8 of the Vehicle Code.

(Added Ch. 546, Stats. 1993. Effective January 1, 1994.)

Disclosure of Exempt Record

6254.5. Notwithstanding any other provisions of the law, whenever a state or local agency discloses a public record which is otherwise exempt from this chapter, to any member of the public, this disclosure shall constitute a waiver of the exemptions specified in Sections 6254, 6254.7, or other similar provisions of law. For purposes of this section, "agency" includes a member, agent, officer, or employee of the agency acting within the scope of his or her membership, agency, office, or employment.

This section, however, shall not apply to disclosures:

(a) Made pursuant to the Information Practices Act (commencing with Section 1798 of the Civil Code) or discovery proceedings.

(b) Made through other legal proceedings or as otherwise required by law.

(c) Within the scope of disclosure of a statute which limits disclosure of specified writings to certain purposes.

(d) Not required by law, and prohibited by formal action of an elected legislative body of the local agency which retains the writings.

(e) Made to any governmental agency which agrees to treat the disclosed material as confidential. Only persons authorized in writing by the person in charge of the agency shall be permitted to obtain the information. Any information obtained by the agency shall only be used for purposes which are consistent with existing law.

(f) Of records relating to a financial institution or an affiliate thereof, if the disclosures are made to the financial institution or affiliate by a state agency responsible for the regulation or supervision of the financial institution or affiliate.

(g) Of records relating to any person that is subject to the jurisdiction of the Department of Corporations, if the disclosures are made to the person that is the subject of the records for the purpose of corrective action by that person, or if a corporation, to an officer, director, or other key personnel of the corporation for the purpose of corrective action, or to any other person to the extent necessary to obtain information from that person for the purpose of an investigation by the Department of Corporations.

(h) Made by the Commissioner of Financial Institutions under Section 1909, 8009, or 18396 of the Financial Code.

(Amended Sec. 780, Ch. 1064, Stats. 1996. Effective January 1, 1997.)

Disclosure of Specified Records

6254.7. (a) All information, analyses, plans, or specifications that disclose the nature, extent, quantity, or degree of air contaminants or other pollution which any article, machine, equipment, or other contrivance will produce, which any air pollution control district or air quality management district, or any other state or local agency or district, requires any applicant to provide before the applicant builds, erects, alters, replaces, operates, sells, rents, or uses the article, machine, equipment, or other contrivance, are public records.

(b) All air or other pollution monitoring data, including data compiled from stationary sources, are public records.

(c) All records of notices and orders directed to the owner of any building of violations of housing or building codes, ordinances, statutes, or regulations which constitute violations of standards provided in Section 1941.1 of the Civil Code, and records of subsequent action with respect to those notices and orders, are public records.

(d) Except as otherwise provided in subdivision (e) and Chapter 3 (commencing with Section 99150) of Part 65 of the Education Code, trade secrets are not public records under this section. "Trade secrets," as used in this section, may include, but are not limited to, any formula, plan, pattern, process, tool, mechanism, compound, procedure, production data, or compilation of information which is not patented, which is known only to certain individuals within a commercial concern who are using it to fabricate, produce, or compound an article of trade or a service having commercial value and which gives its user an opportunity to obtain a business advantage over competitors who do not know or use it.

(e) Notwithstanding any other provision of law, all air pollution emission data, including those emission data which constitute trade secrets as defined in subdivision (d), are public records. Data used to calculate emission data are not emission data for the purposes of this subdivision and data which constitute trade secrets and which are used to calculate emission data are not public records.

(f) Data used to calculate the costs of obtaining emissions offsets are not public records. At the time that an air pollution control district or air quality management district issues a permit to construct to an applicant who is required to obtain offsets pursuant to district rules and regulations, data obtained from the applicant consisting of the year the offset transaction occurred, the amount of offsets purchased, by pollutant, and the total cost, by pollutant, of the offsets purchased is a public record. If an application is denied, the data shall not be a public record.

(Amended Ch. 612, Stats. 1992. Effective January 1, 1993.)

Justification for Withholding Records

6255. (a) The agency shall justify withholding any record by demonstrating that the record in question is exempt under express provisions of this chapter or that on the facts of the particular case the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record.

(b) A response to a written request for inspection or copies of public records that includes a determination that the request is denied, in whole or in part, shall be in writing.

(Amended Sec. 3, Ch. 982, Stats. 2000. Effective January 1, 2001.)

Proceedings to Enforce Public's Right

6258. Any person may institute proceedings for injunctive or declarative relief or writ of mandate in any court of competent jurisdiction to enforce his or her right to inspect or to receive a copy of any public record or class of public records under this chapter. The times for responsive pleadings and for hearings in these proceedings shall be set by the judge of the court with the object of securing a decision as to these matters at the earliest possible time.

(Amended Ch. 908, Stats. 1990. Effective January 1, 1991.)

Order of Court

6259. (a) Whenever it is made to appear by verified petition to the superior court of the county where the records or some part thereof are situated that certain public records are being improperly withheld from a member of the public, the court shall order the officer or person charged with withholding the records to disclose the public record or show cause why he or she should not do so. The court shall decide the case after examining the record in camera, if permitted by subdivision (b) of Section 915 of the Evidence Code, papers filed by the parties and any oral argument and additional evidence as the court may allow.

(b) If the court finds that the public official's decision to refuse disclosure is not justified under Section 6254 or 6255, he or she shall order the public official to make the record public. If the judge determines that the public official was justified in refusing to make the record public, he or she shall return the item to the public official without disclosing its content with an order supporting the decision refusing disclosure.

(c) In an action filed on or after January 1, 1991, an order of the court, either directing disclosure by a public official or supporting the decision of the public official refusing disclosure, is not a final judgment or order within the meaning of Section 904.1 of the Code of Civil Procedure from which an appeal may be taken, but shall be immediately reviewable by petition to the appellate court for the issuance of an extraordinary writ. Upon entry of any order pursuant to this section, a party shall, in order to obtain review of the order, file a petition within 20 days after service upon him or her of a written notice of entry of the order, or within such further time not exceeding an additional 20 days as the trial court may for good cause allow. If the notice is served by mail, the period within which to file the petition shall be increased by five days. A stay of an order or judgment shall not be granted unless the petitioning party demonstrates it will otherwise sustain irreparable damage and probable success on the merits. Any person who fails to obey the order of the court shall be cited to show cause why he or she is not in contempt of court.

(d) The court shall award court costs and reasonable attorney fees to the plaintiff should the plaintiff prevail in litigation filed pursuant to this section. The costs and fees shall be paid by the public agency of which the public official is a member or employee and shall not become a personal liability of the public official. If the court finds that the plaintiff's case is clearly frivolous, it shall award court costs and reasonable attorney fees to the public agency.

(Amended Ch. 926, Stats. 1993. Effective January 1, 1994.)

Status of Existing Judicial Records

6260. The provisions of this chapter shall not be deemed in any manner to affect the status of judicial records as it existed immediately prior to the effective date of this section, nor to affect the rights of litigants, including parties to administrative proceedings, under the laws of discovery of this state, nor to limit or impair any rights of discovery in a criminal case.

(Amended Ch. 314, Stats. 1976. Effective January 1, 1977.)

6261. Notwithstanding Section 6252, an itemized statement of the total expenditures and disbursement of any agency provided for in Article VI of the California Constitution shall be open for inspection.

(Added Ch. 1246, Stats. 1975. Effective January 1, 1976.)

6262. The exemption of records of complaints to, or investigations conducted by, any state or local agency for licensing purposes under subdivision (f) of Section 6254 shall not apply when a request for inspection of such records is made by a district attorney.

(Added Ch. 601, Stats. 1979. Effective January 1, 1980.)

6263. A state or local agency shall allow an inspection or copying of any public record or class of public records not exempted by this chapter when requested by a district attorney.

(Added Ch. 601, Stats. 1979. Effective January 1, 1980.)

6264. The district attorney may petition a court of competent jurisdiction to require a state or local agency to allow him to inspect or receive a copy of any public record or class of public records not exempted by this chapter when the agency fails or refuses to allow inspection or copying within 10 working days of a request. The court may require a public agency to permit inspection or copying by the district attorney unless the public interest or good cause in withholding such records clearly outweighs the public interest in disclosure.

(Added Ch. 601, Stats. 1979. Effective January 1, 1980.)

6265. Disclosure of records to a district attorney under the provisions of this chapter shall effect no change in the status of the records under any other provision of law.

(Added Ch. 601, Stats. 1979. Effective January 1, 1980.)

Article 2. Other Exemptions from Disclosure

6275. It is the intent of the Legislature to assist members of the public and state and local agencies in identifying exemptions to the California Public Records Act. It is the intent of the Legislature that, after January 1, 1999, each addition or amendment to a statute that exempts any information contained in a public record from disclosure pursuant to subdivision (k) of Section 6254 shall be listed and described in this article. The statutes listed in this article may operate to exempt certain records, or portions thereof, from disclosure. The statutes listed and described may not be inclusive of all exemptions. The listing of a statute in this article does not itself create an exemption. Requesters of public records and public agencies are cautioned to review the applicable statute to determine the extent to which the statute, in light of the circumstances surrounding the request, exempts public records from disclosure.

(Added Sec. 11, Ch. 620, Stats. 1998. Effective January 1, 1999.)

6276. Records or information not required to be disclosed pursuant to subdivision (k) of Section 6254 may include, but shall not be limited to, records or information identified in statutes listed in this article.

(Added Sec. 11, Ch. 620, Stats. 1998. Effective January 1, 1999.)

6276.02. Accident Reports, Admissibility as Evidence, Section 315, Public Utilities Code.

Acquired Immune Deficiency Syndrome, blood test results, written authorization not necessary for disclosure, Section 121010, Health and Safety Code.

Acquired Immune Deficiency Syndrome, blood test subject, compelling identity of, Section 120975, Health and Safety Code.

Acquired Immune Deficiency Syndrome, confidentiality of personal data of patients in State Department of Health Services programs, Section 120820, Health and Safety Code.

Acquired Immune Deficiency Syndrome, confidentiality of research records, Sections 121090, 121095, 121115, and 121120, Health and Safety Code.

Acquired Immune Deficiency Syndrome, confidentiality of vaccine volunteers, Section 121280, Health and Safety Code.

Acquired Immune Deficiency Syndrome, confidentiality of information obtained in prevention programs at correctional facilities and law enforcement agencies, Sections 7552 and 7554, Penal Code.

Acquired Immune Deficiency Syndrome, confidentiality of test results of person convicted of prostitution, Section 1202.6, Penal Code.

Acquired Immune Deficiency Syndrome, disclosure of results of HIV test, penalties, Section 120980, Health and Safety Code.

Acquired Immune Deficiency Syndrome, personal information, insurers tests, confidentiality of, Section 799, Insurance Code.

Acquired Immune Deficiency Syndrome, public safety and testing disclosure, Sections 121065 and 121070, Health and Safety Code.

Acquired Immune Deficiency Syndrome Research and Confidentiality Act, production or discovery of records for use in criminal or civil proceedings against subject prohibited, Section 121100, Health and Safety Code.

Acquired Immune Deficiency Syndrome Public Health Records Confidentiality Act, personally identifying information confidentiality, Section 121025, Health and Safety Code.

Acquired Immune Deficiency Syndrome, test of criminal defendant pursuant to search warrant requested by victim, confidentiality of, Section 1524.1, Penal Code.

Acquired Immune Deficiency Syndrome, test results, disclosure to patient's spouse and others, Section 121015, Health and Safety Code.

Acquired Immune Deficiency Syndrome, test of person under Youth Authority, disclosure of results, Section 1768.9, Welfare and Institutions Code.

Acquired Immune Deficiency Syndrome Research and Confidentiality Act, definitions, Section 121125, Health and Safety Code.

Acquired Immune Deficiency Syndrome Research and Confidentiality Act, financial audits or program evaluations, Section 121085, Health and Safety Code.

Acquired Immune Deficiency Syndrome Research and Confidentiality Act, violations, Section 121100, Health and Safety Code.

Acquired Immune Deficiency Syndrome Research and Confidentiality Act, personally identifying research records not to be disclosed, Section 121075, Health and Safety Code.

Acquired Immune Deficiency Syndrome Research and Confidentiality Act, permittee disclosure, Section 121080, Health and Safety Code.

Administrative procedure, adjudicatory hearings, disclosure of ex parte communication to administrative law judge, Section 11430.40, Government Code.

Administrative procedure, adjudicatory hearings, interpreters, Section 11513, Government Code.

Adoption records, confidentiality of, Section 102730, Health and Safety Code.

(Added Sec. 11, Ch. 620, Stats. 1998. Effective January 1, 1999.)

6276.04. Aeronautics Act, reports of investigations and hearings, Section 21693, Public Utilities Code.

Agricultural producers marketing, access to records, Section 59616, Food and Agricultural Code.

Aiding disabled voters, Section 14282, Elections Code.

Air pollution data, confidentiality of trade secrets, Section 6254.7, Government Code, and Sections 42303.2 and 43206, Health and Safety Code.

Air toxics emissions inventory plans, protection of trade secrets, Section 44346, Health and Safety Code.

Alcohol and drug abuse records and records of communicable diseases, confidentiality of, Section 123125, Health and Safety Code.

Apiary registration information, confidentiality of, Section 29041, Food and Agricultural Code.

Arrest not resulting in conviction, disclosure or use of records, Sections 432.7 and 432.8, Labor Code.

Arsonists, registered, confidentiality of certain information, Section 457.1, Penal Code.

Artificial insemination, donor not natural father, confidentiality of records, Section 7613, Family Code.

Assessor's records, confidentiality of information in, Section 408, Revenue and Taxation Code.

Assessor's records, confidentiality of information in, Section 451, Revenue and Taxation Code.

Assessor's records, display of documents relating to business affairs or property of another, Section 408.2, Revenue and Taxation Code.

Assigned risk plans, rejected applicants, confidentiality of information, Section 11624, Insurance Code.

Attorney applicant, investigation by State Bar, confidentiality of, Section 6060.2, Business and Professions Code.

Attorney-client confidential communication, Section 6068, Business and Professions Code and Sections 952, 954, 956, 956.5, 957, 958, 959, 960, 961, and 962, Evidence Code.

Attorney, disciplinary proceedings, confidentiality prior to formal proceedings, Section 6086.1, Business and Professions Code.

Attorney, disciplinary proceeding, State Bar access to nonpublic court records, Section 6090.6, Business and Professions Code.

Attorney, investigation by State Bar, confidentiality of, Section 6168, Business and Professions Code.

Attorney, law corporation, investigation by State Bar, confidentiality of, Section 6168, Business and Professions Code.

Attorney, State Bar survey information, confidentiality of, Section 6033, Business and Professions Code.

Attorney work product confidentiality in administrative adjudication, Section 11507.6, Government Code.

Attorney, work product, confidentiality of, Section 6202, Business and Professions Code.

Attorney work product, discovery, Chapter 4 (commencing with Section 2018.010), of Title 4, of Part 4 of the Code of Civil Procedure.

Auditor General, access to records for audit purposes, Sections 10527 and 10527.1, Government Code.

Auditor General, disclosure of audit records, Section 10525, Government Code.

Automobile Insurance Claims Depository, confidentiality of information, Section 1876.3, Insurance Code.

Automobile insurance, investigation of fraudulent claims, confidential information, Section 1872.8, Insurance Code.

Automotive repair facility, fact of certification or decertification, Section 9889.47, Business and Professions Code.

Automotive repair facility, notice of intent to seek certification, Section 9889.33, Business and Professions Code.

Avocado handler transaction records, confidentiality of, Sections 44982 and 44984, Food and Agricultural Code.

(Amended Sec. 38, Ch. 182, Stats. 2004. Operative July 1, 2005.)

6276.06. Bank and Corporation Tax, disclosure of information, Article 2 (commencing with Section 19542), Chapter 7, Part 10.2, Division 2, Revenue and Taxation Code.

Bank employees, confidentiality of criminal history information, Sections 777.5 and 4990, Financial Code.

Bank reports, confidentiality of, Section 1939, Financial Code.

Basic Property Insurance Inspection and Placement Plan, confidential reports, Section 10097, Insurance Code.

Beef Council of California, confidentiality of fee transactions information, Section 64691.1, Food and Agricultural Code.

Bids, confidentiality of, Section 10304, Public Contract Code.

Birth, death, and marriage licenses, confidential information contained in, Sections 102100 and 102110, Health and Safety Code.

Birth defects, monitoring, confidentiality of information collected, Section 103850, Health and Safety Code.

Birth, live, confidential portion of certificate, Sections 102430, 102475, 103525, and 103590, Health and Safety Code.

Blood tests, confidentiality of hepatitis and AIDS carriers, Section 1603.1, Health and Safety Code.

Blood-alcohol percentage test results, vehicular offenses, confidentiality of, Section 1804, Vehicle Code.

Bureau of Fraudulent Claims, investigations or publication of information, Section 12991, Insurance Code.

Business and professions licensee exemption for social security number, Section 30, Business and Professions Code.

(Added Sec. 11, Ch. 620, Stats. 1998. Effective January 1, 1999.)

6276.14. Dairy Council of California, confidentiality of ballots, Section 64155, Food and Agricultural Code.

Data processing systems contracts with state agencies, confidentiality of information, Section 11772, Government Code.

Death, report that physician's or podiatrist's negligence or incompetence may be cause, confidentiality of, Section 802.5, Business and Professions Code.

Dentist advertising and referral contract exemption, Section 650.2, Business and Professions Code.

Dentist, alcohol or dangerous drug rehabilitation and diversion, confidentiality of records, Section 1698, Business and Professions Code.

Department of Consumer Affairs licensee exemption for alcohol or dangerous drug treatment and rehabilitation records, Section 156.1, Business and Professions Code.

Developmentally disabled conservatee confidentiality of reports and records, Sections 416.8 and 416.18, Health and Safety Code.

Developmentally disabled or mentally disordered person as victim of crime, information in report filed with law enforcement agency, Section 5004.5, Welfare and Institutions Code.

Developmentally disabled person, access to information provided by family member, Section 4727, Welfare and Institutions Code.

Developmentally disabled person and person with mental illness, access to and release of information about, by protection and advocacy agency, Section 4903, Welfare and Institutions Code.

Developmentally disabled person, confidentiality of patient records, state agencies, Section 4553, Welfare and Institutions Code.

Developmentally disabled person, confidentiality of records and information, Sections 4514 and 4518, Welfare and Institutions Code.

Diesel Fuel Tax information, disclosure prohibited, Section 60609, Revenue and Taxation Code.

Disability compensation, confidential medical records, Section 2714, Unemployment Insurance Code.

Disability insurance, access to registered information, Section 789.7, Insurance Code.

Discrimination complaint to Division of Labor Standards Enforcement, confidentiality of witnesses, Section 98.7, Labor Code.

Dispute resolution participants confidentiality, Section 471.5, Business and Professions Code.

District Agricultural Association Board, records, public inspection, Section 3968, Food and Agricultural Code.

Domestic violence counselor and victim, confidentiality of communication, Sections 1037.2 and 1037.5, Evidence Code.

Driver arrested for traffic violation, notice of reexamination for evidence of incapacity, confidentiality of, Section 40313, Vehicle Code.

Driver's license file information, sale or inspection, Section 1810, Vehicle Code.

Driving school and driving instructor licensee records, confidentiality of, Section 11108, Vehicle Code.

(Added Sec. 11, Ch. 620, Stats. 1998. Effective January 1, 1999.)

6276.22. Genetic test results in medical record of applicant or enrollee of specified insurance plans, Sections 10123.35 and 10140.1, Insurance Code.

Governor, correspondence of and to Governor and Governor's office, subdivision (l), Section 6254, Government Code.

Governor, transfer of public records in control of, restrictions on public access, Section 6268, Government Code.

Grand juror, disclosure of information or indictment, Section 924, Penal Code.

Grand jury, confidentiality of request for special counsel, Section 936.7, Penal Code.

Grand jury, confidentiality of transcription of indictment or accusation, Section 938.1, Penal Code.

Group Insurance, Public Employees, Section 53202.25, Government Code.

Guardian, confidentiality of report used to check ability, Section 2342, Probate Code.

Guardianship, confidentiality of report regarding the suitability of the proposed guardian, Section 1543, Probate Code.

Guardianship, disclosure of report and recommendation concerning proposed guardianship of person or estate, Section 1513, Probate Code.

(Added Sec. 11, Ch. 620, Stats. 1998. Effective January 1, 1999.)

6276.24. Harmful matter, distribution, confidentiality of certain recipients, Section 313.1, Penal Code.

Hazardous substance tax information, prohibition against disclosure, Section 43651, Revenue and Taxation Code.

Hazardous waste control, business plans, public inspection, Section 25506, Health and Safety Code.

Hazardous waste control, notice of unlawful hazardous waste disposal, Section 25180.5, Health and Safety Code.

Hazardous waste control, trade secrets, disclosure of information, Sections 25511 and 25538, Health and Safety Code.

Hazardous waste control, trade secrets, procedures for release of information, Section 25358.2, Health and Safety Code.

Hazardous waste generator report, protection of trade secrets, Sections 25244.21 and 25244.23, Health and Safety Code.

Hazardous waste licenseholder disclosure statement, confidentiality of, Section 25186.5, Health and Safety Code.

Hazardous waste management facilities on Indian lands, confidentiality of privileged or trade secret information, Section 25198.4, Health and Safety Code.

Hazardous waste recycling, duties of department, Section 25170, Health and Safety Code.

Hazardous waste recycling, list of specified hazardous wastes, trade secrets, Section 25175, Health and Safety Code.

Hazardous waste recycling, trade secrets, confidential nature, Sections 25173 and 25180.5, Health and Safety Code.

Healing arts licensees, central files, confidentiality, Section 800, Business and Professions Code.

Health authorities, special county, protection of trade secrets, Sections 14087.35, 14087.36, and 14087.38, Welfare and Institutions Code.

Health Care Provider Central Files, confidentiality of, Section 800, Business and Professions Code.

Health care provider disciplinary proceeding, confidentiality of documents, Section 805.1, Business and Professions Code.

Health care service plans, review of quality of care, privileged communications, Sections 1370 and 1380, Health and Safety Code.

Health commissions, special county, protection of trade secrets, Section 14087.31, Welfare and Institutions Code.

Health facilities, patient's rights of confidentiality, Sections 128735, 128755, and 128765, Health and Safety Code.

Health facility and clinic, consolidated data and reports, confidentiality of, Section 128730, Health and Safety Code.

Health personnel, data collection by the Office of Statewide Health Planning and Development, confidentiality of information on individual licentiates, Sections 127775 and 127780, Health and Safety Code.

Health planning and development pilot projects, confidentiality of data collected, Section 128165, Health and Safety Code.

Hereditary Disorders Act, legislative finding and declaration, confidential information, Sections 124975 and 124980, Health and Safety Code.

Hereditary Disorders Act, rules, regulations, and standards, breach of confidentiality, Section 124980, Health and Safety Code.

Higher Education Employee-Employer Relations, findings of fact and recommended terms of settlement, Section 3593, Government Code.

Higher Education Employee-Employer Relations, access by Public Employment Relations Board to employer's or employee organization's records, Section 3563, Government Code.

HIV, disclosures to blood banks by department or county health officers, Section 1603.1, Health and Safety Code.

Home address of public employees and officers in Department of Motor Vehicles, records, confidentiality of, Sections 1808.2 and 1808.4, Vehicle Code.

Horse racing, horses, blood or urine test sample, confidentiality, Section 19577, Business and Professions Code.

Hospital district and municipal hospital records relating to contracts with insurers and service plans, subdivision (t), Section 6254, Government Code.

Hospital final accreditation report, subdivision (s), Section 6254, Government Code.

Housing authorities, confidentiality of rosters of tenants, Section 34283, Health and Safety Code.

Housing authorities, confidentiality of applications by prospective or current tenants, Section 34332, Health and Safety Code.

(Amended Sec. 1, Ch. 424, Stats. 2003. Effective January 1, 2004.)

6276.26. Improper obtaining or distributing of information from Department of Motor Vehicles, Sections 1808.46 and 1808.47, Vehicle Code.

Improper governmental activities reporting, confidentiality of identity of person providing information, Section 8547.5, Government Code.

Improper governmental activities reporting, disclosure of information, Section 8547.6, Government Code.

Industrial accident reports, confidentiality of information, Section 129, Labor Code.

Industrial loan companies, confidentiality of financial information, Section 18496, Financial Code.

Industrial loan companies, confidentiality of investigation and examination reports, Section 18394, Financial Code.

In forma pauperis litigant, rules governing confidentiality of financial information, Section 68511.3, Government Code.

Initiative, referendum, recall, and other petitions, confidentiality of names of signers, Section 6253.5, Government Code.

Inspector General, Youth and Adult Correctional Agency, confidentiality of records of employee interviews, Section 6127, Penal Code.

Insurance claims analysis, confidentiality of information, Section 1875.16, Insurance Code.

Insurance Commissioner, confidential information, Sections 735.5, 1077.3, and 12919, Insurance Code.

Insurance Commissioner, informal conciliation of complaints, confidential communications, Section 1858.02, Insurance Code.

Insurance Commissioner, information from examination or investigation, confidentiality of, Sections 1215.7, 1433, and 1759.3, Insurance Code.

Insurance Commissioner, report to Legislature, confidential information, Section 12961, Insurance Code.

Insurance Commissioner, writings filed with nondisclosure, Section 855, Insurance Code.

Insurance fraud reporting, information acquired not part of public record, Section 1873.1, Insurance Code.

Insurance Holding Company System Regulatory Act, examinations, Section 1215.7, Insurance Code.

Insurance licensee, confidential information, Section 1666.5, Insurance Code.

Insurer application information, confidentiality of, Section 925.3, Insurance Code.

Insurer financial analysis ratios and examination synopses, confidentiality of, Section 933, Insurance Code.

Insurer, request for examination of, confidentiality of, Section 1067.11, Insurance Code.

Integrated Waste Management Board information, prohibition against disclosure, Section 45982, Revenue and Taxation Code.

Intervention in regulatory and ratemaking proceedings, audit of customer seeking and award, Section 1804, Public Utilities Code.

Investigative consumer reporting agency, limitations on furnishing an investigative consumer report, Section 1786.12, Civil Code.

(Added Sec. 11, Ch. 620, Stats. 1998. Effective January 1, 1999.)

6276.28. Joint Legislative Ethics Committee, confidentiality of reports and records, Section 8953, Government Code.

Judicial candidates, confidentiality of communications concerning, Section 12011.5, Government Code.

Jurors' lists, lists of registered voters and licensed drivers as source for, Section 197, Code of Civil Procedure.

Juvenile court proceedings to adjudge a person a dependent child of court, sealing records of, Section 389, Welfare and Institutions Code.

Juvenile criminal records, dissemination to schools, Section 828.1, Welfare and Institutions Code.

Juvenile delinquents, notification of chief of police or sheriff of escape of minor from secure detention facility, Section 1155, Welfare and Institutions Code.

Labor dispute, investigation and mediation records, confidentiality of, Section 65, Labor Code.

Lanterman-Petris-Short Act, mental health services recipients, confidentiality of information and records, mental health advocate, Sections 5540, 5541, 5542, and 5550, Welfare and Institutions Code.

Law enforcement vehicles, registration disclosure, Section 5003, Vehicle Code.

Legislative Counsel records, subdivision (m), Section 6254, Government Code.

Library circulation records and other materials, subdivision (i), Section 6254 and Section 6267, Government Code.

Life and disability insurers, actuarial information, confidentiality of, Section 10489.15, Insurance Code.

Litigation, confidentiality of settlement information, Section 68513, Government Code.

Local agency legislative body, closed sessions, disclosure of materials, Section 54956.9, Government Code.

Local government employees, confidentiality of records and claims relating to group insurance, Section 53202.25, Government Code.

Local summary criminal history information, confidentiality of, Sections 13300 and 13305, Penal Code.

Local agency legislative body, closed session, nondisclosure of minute book, Section 54957.2, Government Code.

Local agency legislative body, meeting, disclosure of agenda, Section 54957.5, Government Code.

Long-term health facilities, confidentiality of complaints against, Section 1419, Health and Safety Code.

Long-term health facilities, confidentiality of records retained by State Department of Health Services, Section 1439, Health and Safety Code.

(Added Sec. 11, Ch. 620, Stats. 1998. Effective January 1, 1999.)

6276.30. Major Risk Medical Insurance Program, negotiations with health plans, subdivisions (v) and (w) of Section 6254, Government Code.

Mandated blood testing and confidentiality to protect public health, prohibition against compelling identification of test subjects, Section 120975, Health and Safety Code.

Mandated blood testing and confidentiality to protect public health, unauthorized disclosures of identification of test subjects, Section 120980, Health and Safety Code.

Mandated blood testing and confidentiality to protect public health, disclosure to patient's spouse, sexual partner, needle sharer, or county health officer, Section 121015, Health and Safety Code.

Manufactured home, mobilehome, floating home, confidentiality of home address of registered owner, Section 18081, Health and Safety Code.

Marital confidential communications, Sections 980, 981, 982, 983, 984, 985, 986, and 987, Evidence Code.

Market reports, confidential, subdivision (e), Section 6254, Government Code.

Marketing of commodities, confidentiality of financial information, Section 58781, Food and Agricultural Code.

Marketing orders, confidentiality of processors or distributors' information, Section 59202, Food and Agricultural Code.

Marriage, confidential, certificate, Section 511, Family Code.

Medi-Cal Benefits Program, confidentiality of information, Section 14100.2, Welfare and Institutions Code.

Medi-Cal Benefits Program, Evaluation Committee, confidentiality of information, Section 14132.6, Welfare and Institutions Code.

Medi-Cal Benefits Program, Request of Department for Records of Information, Section 14124.89, Welfare and Institutions Code.

Medi-Cal Fraud Bureau, confidentiality of complaints, Section 12528, Government Code.

Medical information, disclosure by provider unless prohibited by patient in writing, Section 56.16, Civil Code.

Medical information, types of information not subject to patient prohibition of disclosure, Section 56.30, Civil Code.

Medical and other hospital committees and peer review bodies, confidentiality of records, Section 1157, Evidence Code.

Medical or dental licensee, action for revocation or suspension due to illness, report, confidentiality of, Section 828, Business and Professions Code.

Medical or dental licensee, disciplinary action, denial or termination of staff privileges, report, confidentiality of, Sections 805, 805.1, and 805.5, Business and Professions Code.

Meetings of state agencies, disclosure of agenda, Section 11125.1, Government Code.

Mental institution patient, notification to peace officers of escape, Section 7325.5, Welfare and Institutions Code.

Mentally abnormal sex offender committed to state hospital, confidentiality of records, Section 4135, Welfare and Institutions Code.

Mentally disordered and developmentally disabled offenders, access to criminal histories of, Section 1620, Penal Code.

Mentally disordered persons, court-ordered evaluation, confidentiality of reports, Section 5202, Welfare and Institutions Code.

Mentally disordered or mentally ill person, confidentiality of written consent to detainment, Section 5326.4, Welfare and Institutions Code.

Mentally disordered or mentally ill person, voluntarily or involuntarily detained and receiving services, confidentiality of records and information, Sections 5328, 5328.01, 5328.02, 5328.05, 5328.1, 5328.15, 5328.2, 5328.3, 5328.4, 5328.5, 5328.7, 5328.8, 5328.9, and 5330, Welfare and Institutions Code.

Mentally disordered or mentally ill person, weapons restrictions, confidentiality of information about, Section 8103, Welfare and Institutions Code.

Milk marketing, confidentiality of records, Section 61443, Food and Agricultural Code.

Milk product certification, confidentiality of, Section 62121, Food and Agricultural Code.

Milk, market milk, confidential records and reports, Section 62243, Food and Agricultural Code.

Milk product registration, confidentiality of information, Section 38946, Food and Agricultural Code.

Milk equalization pool plan, confidentiality of producers' voting, Section 62716, Food and Agricultural Code.

Mining report, confidentiality of report containing information relating to mineral production, reserves, or rate of depletion of mining operation, Section 2207, Public Resources Code.

Minor, criminal proceeding testimony closed to public, Section 859.1, Penal Code.

Minors, material depicting sexual conduct, records of suppliers to be kept and made available to law enforcement, Section 1309.5, Labor Code.

Misdemeanor and felony reports by police chiefs and sheriffs to Department of Justice, confidentiality of, Sections 11107 and 11107.5, Penal Code.

Monetary instrument transaction records, confidentiality of, Section 14167, Penal Code.

Missing persons' information, disclosure of, Sections 14201 and 14203, Penal Code.

Morbidity and mortality studies, confidentiality of records, Section 100330, Health and Safety Code.

Motor vehicle accident reports, disclosure, Sections 16005, 20012, and 20014, Vehicle Code.

Motor vehicles, department of, public records, exceptions, Sections 1808 to 1808.7, inclusive, Vehicle Code.

Motor vehicle insurance fraud reporting, confidentiality of information acquired, Section 1874.3, Insurance Code.

Motor vehicle liability insurer, data reported to Department of Insurance, confidentiality of, Section 11628, Insurance Code.

Multijurisdictional drug law enforcement agency, closed sessions to discuss criminal investigation, Section 54957.8, Government Code.

(Amended Sec. 31, Ch. 193, Stats. 2004. Effective January 1, 2005.)

6276.34. Parole revocation proceedings, confidentiality of information in reports, Section 3063.5, Penal Code.

Passenger fishing boat licenses, records, Section 7923, Fish and Game Code.

Paternity, acknowledgement, confidentiality of records, Section 102760, Health and Safety Code.

Patient-physician confidential communication, Sections 992 and 994, Evidence Code.

Patient records, confidentiality of, Section 123135, Health and Safety Code.

Payment instrument licensee records, inspection of, Section 33206, Financial Code.

Payroll records, confidentiality of, Section 1776, Labor Code.

Peace officer personnel records, confidentiality of, Sections 832.7 and 832.8, Penal Code.

Penitential communication between penitent and clergy, Sections 1032 and 1033, Evidence Code.

Personal Income Tax, disclosure of information, Article 2 (commencing with Section 19542), Chapter 7, Part 10.2, Division 2, Revenue and Taxation Code.

Personal information, information practices act, prohibitions against disclosure by state agencies, Sections 1798.24 and 1798.75, Civil Code.

Personal information, subpoena of records containing, Section 1985.4, Code of Civil Procedure.

Personal representative, confidentiality of personal representative's birth date and driver's license number, Section 8404, Probate Code.

Personnel Administration, Department of, confidentiality of pay data furnished to, Section 19826.5, Government Code.

Petition signatures, Section 18650, Elections Code.

Petroleum supply and pricing, confidential information, Sections 25364 and 25366, Public Resources Code.

Pharmacist, alcohol or dangerous drug diversion and rehabilitation records, confidentiality of, Section 4436, Business and Professions Code.

Physical therapist or assistant, records of dangerous drug or alcohol diversion and rehabilitation, confidentiality of, Section 2667, Business and Professions Code.

Physical or mental condition or conviction of controlled substance offense, records in Department of Motor Vehicles, confidentiality of, Section 1808.5, Vehicle Code.

Physician and surgeon, rehabilitation and diversion records, confidentiality of, Section 2355, Business and Professions Code.

Physician assistant, alcohol or dangerous drug diversion and rehabilitation records, confidentiality of, Section 3534.7, Business and Professions Code.

Physician competency examination, confidentiality of reports, Section 2294, Business and Professions Code.

Physicians and surgeons, confidentiality of reports of patients with a lapse of consciousness disorder, Section 103900, Health and Safety Code.

Physician Services Account, confidentiality of patient names in claims, Section 16956, Welfare and Institutions Code.

Podiatrist, alcohol or drug diversion and rehabilitation records, confidentiality of, Section 2497.1, Business and Professions Code.

Pollution Control Financing Authority, financial data submitted to, subdivision (o), Section 6254, Government Code.

Postmortem or autopsy photos, Section 129, Code of Civil Procedure.

(Added Sec. 11, Ch. 620, Stats. 1998. Effective January 1, 1999.)

6276.38. Radioactive materials, dissemination of information about transportation of, Section 33002, Vehicle Code.

Real estate broker, annual report to Department of Real Estate of financial information, confidentiality of, Section 10232.2, Business and Professions Code.

Real property, acquisition by state or local government, information relating to feasibility, subdivision (h), Section 6254, Government Code.

Real property, change in ownership statement, confidentiality of, Section 27280, Government Code.

Reciprocal agreements with adjoining states, Section 391, Fish and Game Code.

Records of contract purchasers, inspection by public prohibited, Section 85, Military and Veterans Code.

Registered public obligations, inspection of records of security interests in, Section 5060, Government Code.

Registration of exempt vehicles, nondisclosure of name of person involved in alleged violation, Section 5003, Vehicle Code.

Rehabilitation, Department of, confidential information, Section 19016, Welfare and Institutions Code.

Reinsurance intermediary-broker license information, confidentiality of, Section 1781.3, Insurance Code.

Rent control ordinance, confidentiality of information concerning accommodations sought to be withdrawn from, Section 7060.4, Government Code.

Report of probation officer, inspection, copies, Section 1203.05, Penal Code.

Repossession agency licensee application, confidentiality of information, Sections 7503, 7504, and 7506.5, Business and Professions Code.

Residence address in any record of Department of Housing and Community Development, confidentiality of, Section 6254.1, Government Code.

Residence address in any record of Department of Motor Vehicles, confidentiality of, Section 6254.1, Government Code, and Section 1808.21, Vehicle Code.

Residence and mailing addresses in records of Department of Motor Vehicles, confidentiality of, Section 1810.7, Vehicle Code.

Residential care facilities, confidentiality of resident information, Section 1568.08, Health and Safety Code.

Residential care facilities for the elderly, confidentiality of client information, Section 1569.315, Health and Safety Code.

Respiratory care practitioner, professional competency examination reports, confidentiality of, Section 3756, Business and Professions Code.

Restraint of trade, civil action by district attorney, confidential memorandum, Section 16750, Business and Professions Code.

Reward by governor for information leading to arrest and conviction, confidentiality of person supplying information, Section 1547, Penal Code.

(Added Sec. 11, Ch. 620, Stats. 1998. Effective January 1, 1999.)

6276.40. Sales and use tax, disclosure of information, Section 7056, Revenue and Taxation Code.

Savings association employees, disclosure of criminal history information, Sections 6525 and 8012, Financial Code.

Savings associations, inspection of records by shareholders, Section 6050, Financial Code.

School district governing board, disciplinary action, disclosure of pupil information, Section 35146, Education Code.

School employee, merit system examination records, confidentiality of, Section 45274, Education Code.

School employee, notice and reasons for hearing on nonreemployment of employee, confidentiality of, Sections 44948.5 and 44949, Education Code.

School meals for needy pupils, confidentiality of records, Section 49558, Education Code.

Sealed records, arrest for misdemeanor, Section 851.7, Penal Code.

Sealed records, misdemeanor convictions, Section 1203.45, Penal Code.

Sealing and destruction of arrest records, determination of innocence, Section 851.8, Penal Code.

Search warrants, special master, Section 1524, Penal Code.

Sex change, confidentiality of birth certificate, Section 103440, Health and Safety Code.

Sex offenders, registration form, Section 290, Penal Code.

Sex offenders, specimen and other information, unauthorized disclosure, Section 290.2, Penal Code.

Sexual assault forms, confidentiality of, Section 13823.5, Penal Code.

Sexual assault victim counselor and victim, confidential communication, Sections 1035.2, 1035.4, and 1035.8, Evidence Code.

Shorthand reporter's complaint, Section 8010, Business and Professions Code.

Small business information compiled by state agencies, confidentiality of, Section 15331.2, Government Code.

Small family day care homes, identifying information, Section 1596.86, Health and Safety Code.

Social security number, applicant for driver's license or identification card, disclosure of, Section 1653.5, Vehicle Code.

(Added Sec. 11, Ch. 620, Stats. 1998. Effective January 1, 1999.)

6276.42. State agency activities relating to unrepresented employees, subdivision (p) of Section 6254, Government Code.

State agency activities relating to providers of health care, subdivision (a) of Section 6254, Government Code.

State Auditor, access to barred records, Section 8545.2, Government Code.

State Auditor, confidentiality of records, Sections 8545, 8545.1, and 8545.3, Government Code.

State civil service employee, confidentiality of appeal to state personnel board, Section 18952, Government Code.
State civil service employees, confidentiality of reports, Section 18573, Government Code.
State civil service examination, confidentiality of application and examination materials, Section 18934, Government Code.
State Contract Act, bids, questionnaires and financial statements, Section 10165, Public Contract Code.
State Contract Act, bids, sealing, opening and reading bids, Section 10304, Public Contract Code.
State Energy Resources Conservation and Development Commission, confidentiality of proprietary information submitted to, Sections 25223 and 25321, Public Resources Code.
State hospital patients, information and records in possession of Superintendent of Public Instruction, confidentiality of, Section 56863, Education Code.
State information security officer, implementation of confidentiality policies, Section 11771, Government Code.
State Long-Term Care Ombudsman, access to government agency records, Section 9723, Welfare and Institutions Code.
State Long-Term Care Ombudsman office, confidentiality of records and files, Section 9725, Welfare and Institutions Code.
State Long-Term Care Ombudsman office, disclosure of information or communications, Section 9715, Welfare and Institutions Code.
State Lottery Evaluation Report, disclosure, Section 8880.46, Government Code.
State summary criminal history information, confidentiality of information, Sections 11105, 11105.1, 11105.3, and 11105.4, Penal Code.
Sterilization of disabled, confidentiality of evaluation report, Section 1955, Probate Code.
Strawberry marketing information, confidentiality of, Section 63124, Food and Agricultural Code.
Structural pest control licensee records relating to pesticide use, confidentiality of, Section 15205, Food and Agricultural Code.
Student driver, records of physical or mental condition, confidentiality of, Section 12661, Vehicle Code.
Student, community college, information received by school counselor, confidentiality of, Section 72621, Education Code.
Student, community college, records, limitations on release, Section 76243, Education Code.
Student, community college, record contents, records of administrative hearing to change contents, confidentiality of, Section 76232, Education Code.
Student, sexual assault on private higher education institution campus, confidentiality of information, Section 94385, Education Code.
Student, sexual assault on public college or university, confidentiality of information, Section 67385, Education Code.
Student in public college or university, record of disciplinary action for sexual assault or physical abuse, access by alleged victim, Section 67134, Education Code.
Student, release of directory information by public college or university, Section 67140, Education Code.
Sturgeon egg processors, records, Section 10004, Fish and Game Code.
(Added Sec. 11, Ch. 620, Stats. 1998. Effective January 1, 1999.)

6276.44. Taxpayer information, confidentiality, local taxes, subdivision (i), Section 6254, Government Code.
Tax preparer, disclosure of information obtained in business of preparing tax returns, Section 17530.5, Business and Professions Code.
Teacher, credential holder or applicant, information provided to Commission on Teacher Credentialing, confidentiality of, Section 44341, Education Code.
Teacher, certified school personnel examination results, confidentiality of, Section 44289, Education Code.
Teacher, information filed with Teachers' Retirement Board, confidentiality of, Section 22221, Education Code.
Telephone answering service customer list, trade secret, Section 16606, Business and Professions Code.
Timber yield tax, disclosure to county assessor, Section 38706, Revenue and Taxation Code.
Timber yield tax, disclosure of information, Section 38705, Revenue and Taxation Code.
Title insurers, confidentiality of notice of noncompliance, Section 12414.14, Insurance Code.
Tow truck driver, information in records of California Highway Patrol, Department of Motor Vehicles, or other agencies, confidentiality of, Sections 2431 and 2432.3, Vehicle Code.
Toxic substances, Department of, inspection of records of, Section 25152.5, Health and Safety Code.
Trade secrets, Section 1060, Evidence Code.
Trade secrets, confidentiality of, occupational safety and health inspections, Section 6322, Labor Code.
Trade secrets, disclosure of public records, Section 3426.7, Civil Code.
Trade secrets, food, drugs, cosmetics, nondisclosure, Sections 110165 and 110370, Health and Safety Code.
Trade secrets, protection by Director of the Department of Pesticide Regulation, Section 6254.2, Government Code.
Trade secrets and proprietary information relating to pesticides, confidentiality of, Sections 14022 and 14023, Food and Agricultural Code.
Trade secrets, protection by Director of Industrial Relations, Section 6396, Labor Code.
Trade secrets relating to hazardous substances, disclosure of, Sections 25358.2 and 25358.7, Health and Safety Code.
Traffic violator school licensee records, confidentiality of, Section 11212, Vehicle Code.
Traffic offense, dismissed for participation in driving school or program, record of, confidentiality of, Section 1808.7, Vehicle Code.
Transit districts, questionnaire and financial statement information in bids, Section 99154, Public Utilities Code.
Trust companies, disclosure of private trust confidential information, Section 1582, Financial Code.
(Added Sec. 11, Ch. 620, Stats. 1998. Effective January 1, 1999.)

6276.46. Unclaimed property, Controller records of, disclosure, Section 1582, Code of Civil Procedure.
Unemployment compensation, disclosure of confidential information, Section 2111, Unemployment Insurance Code.
Unemployment compensation, information obtained in administration of code, Section 1094, Unemployment Insurance Code.
Unemployment compensation, purposes for which use of information may be authorized, Section 1095, Unemployment Insurance Code.
Unemployment fund contributions, publication of annual tax rate, Section 989, Unemployment Insurance Code.
Unsafe working condition, confidentiality of complainant, Section 6309, Labor Code.
Use fuel tax information, disclosure prohibited, Section 9255, Revenue and Taxation Code.
Utility systems development, confidential information, subdivision (e), Section 6254, Government Code.
Vehicle registration, confidentiality of information, Section 4750.4, Vehicle Code.
Vehicle accident reports, disclosure of, Sections 16005, 20012, and 20014, Vehicle Code and Section 27177, Streets and Highways Code.
Vehicular offense, record of, confidentiality five years after conviction, Section 1807.5, Vehicle Code.
Veterans Affairs, Department of, confidentiality of records of contract purchasers, Section 85, Military and Veterans Code.
Veterinarian or animal health technician, alcohol or dangerous drugs diversion and rehabilitation records, confidentiality of, Section 4871, Business and Professions Code.
Victim, statements at sentencing, Section 1191.15, Penal Code.
Victims' Legal Resource Center, confidentiality of information and records retained, Section 13897.2, Penal Code.
Victims of crimes compensation program, confidentiality of records, subdivision (d), Section 13968, Government Code.
Voter, registration by confidential affidavit, Section 2194, Elections Code.
Voter registration card, confidentiality of information contained in, Section 6254.4, Government Code.
Voting, secrecy, Section 1050, Evidence Code.
Wards and dependent children, inspection of juvenile court documents, Section 827, Welfare and Institutions Code.
(Amended Sec. 32, Ch. 193, Stats. 2004. Effective January 1, 2005.)

6518. (a) A joint powers agency, without being subject to any limitations of any party to the joint powers agreement pursuant to Section 6509, may also finance or refinance the acquisition or

transfer of transit equipment or transfer federal income tax benefits with respect to any transit equipment by executing agreements, leases, purchase agreements, and equipment trust certificates in the forms customarily used by a private corporation engaged in the transit business to effect purchases of transit equipment, and dispose of the equipment trust certificates by negotiation or public sale upon terms and conditions authorized by the parties to the agreement. Payment for transit equipment, or rentals therefor, may be made in installments, and the deferred installments may be evidenced by equipment trust certificates payable from any source or sources of funds specified in the equipment trust certificates that are authorized by the parties to the agreement. Title to the transit equipment shall not vest in the joint powers agency until the equipment trust certificates are paid.

(b) An agency that finances or refinances transit equipment or transfers federal income tax benefits with respect to transit equipment under subdivision (a) may provide in the agreement to purchase or lease transit equipment any of the following:

(1) A direction that the vendor or lessor shall sell and assign or lease the transit equipment to a bank or trust company, duly authorized to transact business in the state as trustee, for the benefit and security of the equipment trust certificates.

(2) A direction that the trustee shall deliver the transit equipment to one or more designated officers of the entity.

(3) An authorization for the joint powers agency to execute and deliver simultaneously therewith an installment purchase agreement or a lease of equipment to the joint powers agency.

(c) An agency that finances or refinances transit equipment or transfers federal income tax benefits with respect to transit equipment under subdivision (a) shall do all of the following:

(1) Have each agreement or lease duly acknowledged before a person authorized by law to take acknowledgments of deeds and be acknowledged in the form required for acknowledgment of deeds.

(2) Have each agreement, lease, or equipment trust certificate authorized by resolution of the joint powers agency.

(3) Include in each agreement, lease, or equipment trust certificate any covenants, conditions, or provisions that may be deemed necessary or appropriate to ensure the payment of the equipment trust certificate from legally available sources of funds, as specified in the equipment trust certificates.

(4) Provide that the covenants, conditions, and provisions of an agreement, lease, or equipment trust certificate do not conflict with any of the provisions of any trust agreement securing the payment of any bond, note, or certificate of the joint powers agency.

(5) File an executed copy of each agreement, lease, or equipment trust certificate in the office of the Secretary of State, and pay the fee, as set forth in paragraph (3) of subdivision (a) of Section 12195 of the Government Code, for each copy filed.

(d) The Secretary of State may charge a fee for the filing of an agreement, lease, or equipment trust certificate under this section. The agreement, lease, or equipment trust certificate shall be accepted for filing only if it expressly states thereon in an appropriate manner that it is filed under this section. The filing constitutes notice of the agreement, lease, or equipment trust certificate to any subsequent judgment creditor or any subsequent purchaser.

(e) Each vehicle purchased or leased under this section shall have the name of the owner or lessor plainly marked on both sides thereof followed by the appropriate words "Owner and Lessor" or "Owner and Vendor," as the case may be.

(Amended Sec. 42, Ch. 1000, Stats. 1999. Effective January 1, 2000.)

7473. (a) A customer may authorize disclosure under paragraph (1) of subdivision (a) of Section 7470 if those seeking disclosure furnish to the financial institution a signed and dated statement by which the customer:

(1) Authorizes such disclosure for a period to be set forth in the authorization statement;

(2) Specifies the name of the agency or department to which disclosure is authorized and, if applicable, the statutory purpose for which the information is to be obtained; and

(3) Identifies the financial records which are authorized to be disclosed.

(b) No such authorization shall be required by a financial institution as a condition of doing business with such financial institution.

(c) Any officer, employee or agent of a state or local agency seeking customer authorization for disclosure of customer financial records shall include in the form which the customer signs granting authorization written notification that the customer has the right at any time to revoke such authorization, except where such authorization is required by statute.

(d) An agency or department examining the financial records of a customer pursuant to this section shall notify the customer in writing within 30 days of such examination and inform the customer that he has the right to make a written request as to the reason for such examination. Such notice shall specify the financial records which were examined and, if requested, the reason for such examination.

(Added Ch. 1320, Stats. 1976. Effective January 1, 1977.)

11019.9. Each state department and state agency shall enact and maintain a permanent privacy policy, in adherence with the Information Practices Act of 1977 (Title 1.8 (commencing with Section 1798) of Part 4 of Division 3 of the Civil Code), that includes, but is not limited to, the following principles:

(a) Personally indentifiable information is only obtained through lawful means.

(b) The purposes for which personally identifiable data are collected are specified at or prior to the time of collection, and any subsequent use is limited to the fulfillment of purposes not inconsistent with those purposes previously specified.

(c) Personal data shall not be disclosed, made available, or otherwise used for purposes other than those specified, except with the consent of the subject of the data, or as authorized by law or regulation.

(d) Personal data collected must be relevant to the purpose for which it is collected.

(e) The general means by which personal data is protected against loss, unauthorized access, use modification or disclosure shall be posted, unless such disclosure of general means would compromise legitimate state department or state agency objectives or law enforcement purposes.

(f) Each state department or state agency shall designate a position within the department or agency, the duties of which shall include, but not be limited to, responsibility for the privacy policy within that department or agency.

(Added Sec. 2, Ch. 984, Stats. 2000. Effective January 1, 2001.)

11180.5. At the request of a prosecuting attorney or the Attorney General, any agency, bureau, or department of this state, any other state, or the United States may assist in conducting an investigation of any unlawful activity

involves matters within or reasonably related to the jurisdiction of the agency, bureau, or department. This investigation may be made in cooperation with the prosecuting attorney or the Attorney General. The prosecuting attorney or the Attorney General may disclose documents or information acquired pursuant to the investigation to another agency, bureau, or department if the agency, bureau, or department agrees to maintain the confidentiality of the documents or information received to the extent required by this article.

(Amended Sec. 5, Ch. 876, Stats. 2003. Effective January 1, 2004.)

11380.3. A regulation delivered to the department pursuant to Section 11380 shall contain a reference to the authority under which the regulation is being adopted and a reference to the particular code sections or other provisions of law which are being implemented, interpreted, or made specific. Such references shall be printed with the regulation in the California Administrative Code.

(Added Ch. 710, Stats. 1978. Effective January 1, 1979.)

Administrative Hearing Procedure

11504. A hearing to determine whether a right, authority, license, or privilege should be granted, issued, or renewed shall be initiated by filing a statement of issues. The statement of issues shall be a written statement specifying the statutes and rules with which the respondent must show compliance by producing proof at the hearing and, in addition, any particular matters that have come to the attention of the initiating party and that would authorize a denial of the agency action sought. The statement of issues shall be verified unless made by a public officer acting in his or her official capacity or by an employee of the agency before which the proceeding is to be held. The verification may be on information and belief. The statement of issues shall be served in the same manner as an accusation, except that, if the hearing is held at the request of the respondent, Sections 11505 and 11506 shall not apply and the

statement of issues together with the notice of hearing shall be delivered or mailed to the parties as provided in Section 11509. Unless a statement to respondent is served pursuant to Section 11505, a copy of Sections 11507.5, 11507.6, and 11507.7, and the name and address of the person to whom requests permitted by Section 11505 may be made, shall be served with the statement of issues.

(Amended Sec. 50, Ch. 17, Stats. 1997. Effective January 1, 1998.)

Offset of Fine, Bail, Parking Penalty, or Reimbursement

12419.10. (a) (1) The Controller shall, to the extent feasible, offset any amount overdue and unpaid for a fine, penalty, assessment, bail, vehicle parking penalty, or court-ordered reimbursement for court-related services, from a person or entity, against any amount owing the person or entity by a state agency on a claim for a refund from the Franchise Tax Board under the Personal Income Tax Law or the Bank and Corporation Tax Law or from winnings in the California State Lottery. Standards and procedures for submission of requests for offsets shall be as prescribed by the Controller. Whenever insufficient funds are available to satisfy an offset request, the Controller, after first applying the amounts available to any amount due a state agency, may allocate the balance among any other requests for offset.

(2) Any request for an offset for a vehicle parking penalty shall be submitted within three years of the date the penalty was incurred. This three year maximum term for refund offsets for parking tickets applies to requests submitted to the Controller on or after January 1, 2004.

(b) Once an offset request for a vehicle parking penalty is made, a local agency may not accrue additional interest charges, collection charges, penalties, or other charges on or after the date that the offset request is made. Payment of an offset request for a vehicle parking penalty shall be made on the condition that it constitutes full and final payment of that offset.

(c) The Controller shall deduct and retain from any amount offset in favor of a city or county an amount sufficient to reimburse the Controller, the Franchise Tax Board, the California State Lottery, and the Department of Motor Vehicles for their administrative costs of processing the offset payment.

(d) Notwithstanding Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1, or any other provision of law, the social security number of any person obtained pursuant to Section 4150, 4150.2, or 12800 of the Vehicle Code is not a public record and shall only be provided by the Department of Motor Vehicles to an authorized agency for the sole purpose of making an offset pursuant to this section for any unpaid vehicle parking penalty or any unpaid fine, penalty, assessment, or bail of which the Department of Motor Vehicles has been notified pursuant to subdivision (a) of Section 40509 of the Vehicle Code or Section 1803 of the Vehicle Code, responding to information requests from the Franchise Tax Board for the purpose of tax administration, and responding to requests for information from an agency, operating pursuant to and carrying out the provisions of, Part A (Aid to Families with Dependent Children), or Part D (Child Support and Establishment of Paternity) of Subchapter IV of Chapter 7 of Title 42 of the United States Code. As used in this section, "authorized agency" means the Controller, the Franchise Tax Board, or the California Lottery Commission.

(Amended Sec. 1, Ch. 551, Stats. 2003. Effective January 1, 2004.)

Business, Transportation and Housing Agency

13975. The Business and Transportation Agency in state government is hereby renamed the Business, Transportation and Housing Agency. The agency consists of the Department of Alcoholic Beverage Control, the Department of the California Highway Patrol, the Department of Corporations, the Department of Housing and Community Development, the Department of Motor Vehicles, the Department of Real Estate, the Department of Transportation, the Department of Financial Institutions, the Stephen P. Teale Consolidated Data Center; and the California Housing Finance Agency is also located within the Business, Transportation and Housing Agency, as specified in Division 31 (commencing with Section 50000) of the Health and Safety Code.

(Amended Sec. 787, Ch. 1064, Stats. 1996. Effective January 1, 1997.)

13976. The agency is under the supervision of an executive officer known as the Secretary of the Business, Transportation and Housing Agency. He shall be appointed by the Governor, subject to confirmation by the Senate, and shall hold office at the pleasure of the Governor.

The annual salary of the secretary is provided for by Chapter 6 (commencing with Section 11550) of Part 1 of Division 3 of Title 2 of this code.

As used in this part, "agency" and "secretary" refer to the Business, Transportation and Housing Agency and the Secretary of the Business, Transportation and Housing Agency, respectively, unless the context otherwise requires.

(Amended Ch. 1153, Stats. 1980. Effective September 29, 1980.)

13977. Before entering upon the duties of his office the secretary shall execute an official bond to the State in the penal sum of fifty thousand dollars ($50,000) conditioned upon the faithful performance of his duties.

(Amended Ch. 138, Stats. 1969. Effective November 10, 1969.)

13978. The secretary has the power of general supervision over, and is directly responsible to the Governor for, the operations of each department, office, and unit within the agency. The secretary may issue such orders as the secretary deems appropriate to exercise any power or jurisdiction, or to assume or discharge any responsibility, or to carry out or effect any of the purposes vested by law in any department in the agency.

(Amended Ch. 1153, Stats. 1980. Effective September 29, 1980.)

13978.2. The Secretary of the Business, Transportation and Housing Agency shall advise the Governor on, and assist the Governor in establishing, major policy and program matters affecting each department, office, or other unit within the agency, and shall serve as the principal communication link for the effective transmission of policy problems and decisions between the Governor and each such department, office, or other unit.

(Amended Ch. 1153, Stats. 1980. Effective September 29, 1980.)

13978.4. The Secretary of the Business, Transportation and Housing Agency shall exercise the authority vested in the Governor in respect to the functions of each department, office, or other unit within the agency, including the adjudication of conflicts between or among the departments, offices, or other units; and shall represent the Governor in coordinating the activities of each such department, office, or other unit with those of other agencies, federal, state, or local.

(Amended Ch. 1153, Stats. 1980. Effective September 29, 1980.)

13978.6. (a) The Secretary of the Business, Transportation and Housing Agency shall be generally responsible for the sound fiscal management of each department, office, or other unit within the agency. The secretary shall review and approve the proposed budget of each such department, office, or other unit. The secretary shall hold the head of each such department, office, or other unit responsible for management control over the administrative, fiscal, and program performance of his or her department, office, or other unit. The secretary shall review the operations and evaluate the performance at appropriate intervals of each such department, office, or other unit, and shall seek continually to improve the organization structure, the operating policies, and the management information systems of each such department, office, or other unit.

(b) There is in the Business, Transportation, and Housing Agency a Department of Corporations, which has the responsibility for administering various laws. In order to effectively support the Department of Corporations in the administration of these laws, there is hereby established the State Corporations Fund. All expenses and salaries of the Department of Corporations shall be paid out of the State Corporations Fund. Therefore, notwithstanding any provision of any law administered by the Department of Corporations declaring that fees, reimbursements, assessments, or other money or amounts charged and collected by the Department of Corporations under these laws are to be delivered or transmitted to the Treasurer and deposited to the credit of the General Fund, on and after July 1, 1992, all fees, reimbursements, assessments, and other money or amounts charged and collected under these laws and attributable to the 1992–93 fiscal year and subsequent fiscal years shall be delivered or transmitted to the Treasurer and deposited to the credit of the State Corporations Fund.

(Amended Ch. 1018, Stats. 1991. Effective January 1, 1992.)

13979. The secretary shall develop and report to the Governor on legislative, budgetary, and administrative programs to accomplish comprehensive, long-range, co-ordinated planning and policy formulation in the matters of public interest related to the agency. To accomplish this end, the secretary may hold public hearings, consult with and use the services and cooperation of other state agencies, employ staff and consultants, and appoint advisory and technical committees to assist in the work.

(Amended Ch. 138, Stats. 1969. Effective November 10, 1969.)

13980. For the purpose of administration, the secretary shall review the organization of the agency and report to the Governor on such changes as he deems necessary properly to segregate and conduct the work of the agency.

(Amended Ch. 138, Stats. 1969. Effective November 10, 1969.)

13981. The secretary and any other officer or employee within the agency designated in writing by the secretary shall have the power of a head of a department pursuant to Article 2, commencing with Section 11180) of Chapter 2, Part 1, Division 3, Title 2 of the Government Code.)

(Amended Ch. 138, Stats. 1969. Effective November 10, 1969.)

13982. Whenever a power is granted to the secretary the power may be exercised by such officer or employee within the agency as designated in writing by the secretary.

(Amended Ch. 138, Stats. 1969. Effective November 10, 1969.)

13983. The secretary shall conduct a program relating to the medical aspects of traffic injury and accident control.

(Amended Ch. 138, Stats. 1969. Effective November 10, 1969.)

Department of Transportation

14001. There is in the Business, Transportation and Housing Agency a Department of Transportation.

Any reference in any law or regulation to the Department of Public Works shall be deemed to refer to the Department of Transportation.

(Amended Ch. 454, Stats. 1982. Effective January 1, 1983.)

State Parking Facilities

14677. Any state agency, with the approval of the director, may permit motor vehicle parking by state officers and employees or other persons upon state property under the jurisdiction or control of such agency and may prescribe the terms and conditions of such parking including the payment of parking fees in such amounts and under such circumstances as may be determined by the state agency with the approval of the Director of General Services. Different rates of parking fees, based upon the number of riders in each vehicle, may be charged.

No such parking shall be permitted by any state agency except pursuant to this section.

Varying rates of parking fees may be established for different localities or for different parking facilities.

This section shall not apply to facilities constructed under the State College Revenue Bond Act of 1947, nor shall it apply to the parking of legislators' motor vehicles in the State Capitol Garage.

The Legislature hereby declares it to be the policy of the state to permit motor vehicle parking by state officers and employees or other persons on state-owned or controlled property to the extent reasonably possible and subject to the charging of parking fees under such circumstances and in such amounts as may be deemed appropriate.

The Legislature by this section does not intend to authorize the institution of a public parking program unrelated to state purposes and in competition with private industry.

(Amended Ch. 882, Stats. 1980. Effective September 11, 1980.)

14679. (a) Any parking facility under the jurisdiction or control of any state agency, which is available to private persons who desire to conduct business with a state agency, shall reserve for the use of physically handicapped persons a minimum of one parking space if the facility contains 100 or fewer spaces and another space for each additional 100 parking spaces or fraction thereof. Additional spaces shall be provided where usage indicates a greater need. Such space or spaces shall be reserved by posting immediately adjacent to and visible from such space or spaces a sign consisting of a profile view of a wheelchair with occupant in white on a blue background.

(b) If no parking facility under the jurisdiction and control of a state agency is available to private persons who desire to conduct business with the state agency, the state agency shall request the local authority having jurisdiction over streets immediately adjacent to the property of the state agency to provide parking spaces for the use of physically handicapped persons pursuant to Section 22511.7 of the Vehicle Code.

(c) As used in this section, "parking facility" means any facility or combination of facilities for parking which contains six or more parking spaces but does not include any facility constructed, altered, structurally repaired, or added to subsequent to the operative date of regulations adopted by the State Architect pursuant to Chapter 7 (commencing with Section 4450), Division 5, Title 1 of this code.

(d) As used in this section, "physically handicapped person" includes any person described in Section 9105 or 22511.5 of the Vehicle Code.

(Added Ch. 590, Stats. 1977. Effective January 1, 1978.)

14679.5. (a) Any state agency which has under its jurisdiction or control any parking facility, which is available to state officers and employees or to private persons who desire to conduct business with a state agency, shall construct, operate, and maintain bicycle and moped parking facilities for the use of bicycle and moped riders.

(b) If no parking facility under the jurisdiction and control of a state agency is available to state officers and employees or to private persons who desire to conduct business with a state agency, the state agency shall request the local authority having jurisdiction over streets and sidewalks immediately adjacent to the property of the state agency to provide parking spaces upon which parking facilities for use by bicycle and moped riders shall be constructed, operated, and maintained by such agency.

(c) As used in this section, "parking facility" means any facility or combination of facilities for parking which contains six or more parking spaces.

(Added Ch. 934, Stats. 1980. Effective January 1, 1981.

16302.1. Whenever any person pays to any state agency pursuant to law an amount covering taxes, penalties, interest, license or other fees, or any other payment, and it is subsequently determined by the state agency responsible for the collection thereof that this amount includes an overpayment of ten dollars ($10) or less of the amount due the state pursuant to the assessment, levy, or charge to which the payment is applicable, the amount of the overpayment may be disposed of in either of the following ways:

(a) The state agency responsible for the collection to which the overpayment relates may apply the amount of the overpayment as a payment by the person on any other taxes, penalties, interest, license or other fees, or any other amount due the state from that person if the state agency is responsible by law for the collection to which the overpayment is to be applied as a payment.

(b) Upon written request of the state agency responsible for the collection to which the overpayment relates, the amount of the overpayment shall, on order of the Controller, be deposited as revenue in the fund in the State Treasury into which the collection, exclusive of overpayments, is required by law to be deposited.

The State Board of Control may adopt rules and regulations to permit state agencies to retain these overpayments where a demand for refund permitted by law is not made within six months after the refund becomes due, and the retained overpayments shall belong to the state.

Except as provided in the foregoing paragraph, this section shall not affect the right of any person making overpayment of any amount to the state to make a claim for refund of the overpayment, nor the authority of any state agency or official to make payment of any amount so claimed, if otherwise authorized by law.

(Amended Sec. 10, Ch. 95, Stats. 1999. Effective July 13, 1999.)

26751. After possession is taken of any vehicle by or on behalf of any legal owner thereof under the terms of a security agreement or lease agreement, the debtor shall pay the sheriff a fee of fifteen dollars ($15) for the receipt and filing of the report of repossession pursuant to Section 28 of the Vehicle Code before the vehicle may be redeemed by the debtor. Except as provided herein, any person in possession of the vehicle shall not release it to the debtor without first obtaining proof of payment of the fee to the sheriff. At the request of the debtor, a person in possession of the vehicle, or the legal owner, may also release the vehicle to the debtor provided the debtor pays the fifteen dollar ($15) fee, plus an administrative fee not to exceed five dollars ($5), to the person in possession or the legal owner, who shall transmit the fifteen dollar ($15) fee to the sheriff within three business days. The failure to transmit the fee within three business days shall subject the person in possession or legal owner receiving the fee from the debtor to a fine of fifty dollars ($50). The proof of payment, or a copy thereof, shall be retained by the party

releasing possession to the debtor for the period required by law, and the party releasing possession shall provide a copy of the proof of payment to the debtor upon request of the debtor.

(Amended Ch. 1114, Stats. 1994. Effective January 1, 1995. Supersedes Ch. 146.)

41612. After possession is taken of any vehicle by or on behalf of any legal owner thereof under the terms of a security agreement or lease agreement, the debtor shall pay the chief of police or a parking authority operated by a city and county a fee of fifteen dollars ($15) for the receipt and filing of the report of repossession pursuant to Section 28 of the Vehicle Code before the vehicle may be redeemed by the debtor. Except as provided herein, any person in possession of the vehicle shall not release it to the debtor without first obtaining proof of payment of the fee to the chief of police or parking authority. At the request of the debtor, a person in possession of the vehicle, or the legal owner, may also release the vehicle to the debtor provided the debtor pays the fifteen dollar ($15) fee, plus an administrative fee not to exceed five dollars ($5), to the person in possession or the legal owner who shall transmit the fifteen dollar ($15) fee to the chief of police or parking authority within three business days. Failure to transmit the fee within three business days shall subject the person in possession or the legal owner receiving the fee from the debtor to a fine of fifty dollars ($50). The proof of payment, or a copy thereof, shall be retained by the party releasing possession to the debtor for the period required by law, and the party releasing possession shall provide a copy of the proof of payment to the debtor upon request of the debtor.

(Amended Ch. 1114, Stats. 1994. Effective January 1, 1995. Supersedes Ch. 146.)

53086. Whenever a peace officer arrests any person for operating as a taxicab without a valid taxicab certificate, license, or permit required by any ordinance, and the offense occurred at a public airport, within 100 feet of a public airport, or within two miles of the California/Mexico international border, the peace officer may impound and retain possession of any vehicle used in a violation of the ordinance.

If the vehicle is seized from a person who is not the owner of the vehicle, the impounding authority shall immediately give notice to the owner by first-class mail.

The vehicle shall immediately be returned to the owner without cost to the owner if the infraction or violation is not prosecuted or is dismissed, the owner is found not guilty of the offense, or it is determined that the vehicle was used in violation of the ordinance without the knowledge and consent of the owner. Otherwise, the vehicle shall be returned to the owner upon payment of any fine ordered by the court. After the expiration of six weeks from the final disposition of the criminal case, the impounding authority may deal with the vehicle as lost or abandoned property under Section 1411 of the Penal Code.

At any time, a person may make a motion in municipal court for the immediate return of a vehicle on the ground that there was no probable cause to seize it or that there is some other good cause, as determined by the court, for the return of the vehicle.

No peace officer, however, shall impound any vehicle owned or operated by a nonprofit organization exempt from taxation pursuant to Section 501(c)(3) of the Internal Revenue Code which serves youth or senior citizens and provides transportation incidental to its programs or services.

(Added Ch. 1116, Stats. 1990. Effective January 1, 1991.)

Costs of Emergency Response

53150. Any person who is under the influence of an alcoholic beverage or any drug, or the combined influence of an alcoholic beverage and any drug, whose negligent operation of a motor vehicle caused by that influence proximately causes any incident resulting in an appropriate emergency response, and any person whose intentionally wrongful conduct proximately causes any incident resulting in an appropriate emergency response, is liable for the expense of an emergency response by a public agency to the incident.

(Added Ch. 337, Stats. 1985. Effective January 1, 1986.)

53151. Any person who is under the influence of an alcoholic beverage or any drug, or the combined influence of an alcoholic beverage and any drug, whose negligent operation of any boat or vessel caused by that influence proximately causes any incident resulting in an appropriate emergency response, and any person whose intentionally wrongful conduct proximately causes any incident resulting in an appropriate emergency response, is liable for the expense of an emergency response by a public agency to the incident.

(Added Ch. 337, Stats. 1985. Effective January 1, 1986.)

53152. Any person who is under the influence of an alcoholic beverage or any drug, or the combined influence of an alcoholic beverage and any drug, whose negligent operation of a civil aircraft caused by that influence proximately causes any incident resulting in an appropriate emergency response, and any person whose intentionally wrongful conduct proximately causes an incident resulting in an appropriate emergency response, is liable for the expense of an emergency response by a public agency to the incident.

(Added Ch. 337, Stats. 1985. Effective January 1, 1986.)

53153. For purposes of this article, a person is under the influence of an alcoholic beverage or any drug, or the combined influence of an alcoholic beverage and any drug, when as a result of drinking an alcoholic beverage or using a drug, or both, his or her physical or mental abilities are impaired to a degree that he or she no longer has the ability to operate a motor vehicle, boat or vessel, or aircraft with the caution characteristic of a sober person of ordinary prudence under the same or similar circumstances. For purposes of this article, the presumption described in Sections 23152 and 23155 of the Vehicle Code shall apply.

(Added Ch. 337, Stats. 1985. Effective January 1, 1986.)

53154. The expense of an emergency response shall be a charge against the person liable for expenses under this article. The charge constitutes a debt of that person and is collectible by the public agency incurring those costs in the same manner as in the case of an obligation under a contract, expressed or implied, except that liability for the expenses provided for in this article shall not be insurable and no insurance policy shall provide or pay for the expenses.

(Added Ch. 337, Stats. 1985. Effective January 1, 1986.)

53156. As used in this article:

(a) "Expense of an emergency response" means reasonable costs incurred by a public agency in reasonably making an appropriate emergency response to the incident, including the costs of providing police, firefighting, rescue, and emergency medical services at the scene of the incident, but shall only include those costs directly arising because of the response to the particular incident.

(b) "Public agency" means the state and any city, county, municipal corporation, district, or public authority located, in whole or in part, within this state which provides or may provide firefighting, police, ambulance, medical, or other emergency services.

(c) "Intentionally wrongful conduct" means conduct intended to injure another person or property.

(Added Ch. 337, Stats. 1985. Effective January 1, 1986.)

53158. It is not the intent of the Legislature, in enacting this article, to occupy the field of recovery of the expense of an emergency response by a public agency, nor is it the intent of the Legislature to preempt local regulations or to otherwise limit the remedies available to any public agency to recover the expenses of an emergency response to any incident not involving persons who operate a motor vehicle, boat or vessel, or civil aircraft while under the influence of an alcoholic beverage or any drug, or the combined influence of an alcoholic beverage and any drug.

(Added Ch. 337, Stats. 1985. Effective January 1, 1986.)

53159. (a) As used in this section, the following terms have the following meanings:

(1) "Expenses of an emergency response" means those reasonable and necessary costs directly incurred by public agencies, for-profit entities, or not-for-profit entities that make an appropriate emergency response to an incident, and include the cost of providing police, firefighting, search and rescue, and emergency medical services at the scene of an incident, and salaries of the persons who respond to the incident, but does not include charges assessed by an ambulance service.

(2) "Public agency" means the state and any city, county, municipal corporation, or other public authority that is located in whole or in part in this state and that provides police, firefighting, medical, or other emergency services.

(b) Any person who intentionally, knowingly, and willfully enters into any area that is closed or has been closed to the public by competent authority for any reason, or an area that a reasonable person under the circumstances should have known was closed to the public, is liable for the expenses of an emergency response required

to search for or rescue that person, or if the person was operating a vehicle, any of his or her passengers, plus the expenses for the removal of any inoperable vehicle. Posting a sign, placing a barricade, a restraining or retaining wall, roping off an area, or any other device is sufficient indication that an area is closed to the public due to danger of injury, for the public's safety, or for any other reason.

(c) A person who drives a vehicle on a public street or highway that is temporarily covered by a rise in water level, including groundwater or overflow of water, and that is barricaded by any of the means described in subdivision (b), because of flooding, is liable for the expenses of any emergency response that is required to remove from the public street or highway, the driver, or any passenger in the vehicle that has become inoperable on the public street or highway, or the vehicle that has become inoperable on the public street or highway.

(d) Unless otherwise provided by law, this section shall apply to all persons, regardless of whether the person is on foot, on skis or snowshoes, or is operating a motor vehicle, bicycle, vessel, watercraft, raft, snowmobile, all-terrain vehicle, or any other boat or vehicle of any description.

(e) This section shall not apply to any person who is authorized by the landowner, lessor, or manager of the closed area, to be in the closed area, and further shall have no application to any federal, state, or local government official who is in the closed area as part of his or her official duty, nor to any public utility performing services consistent with its public purpose, nor to any person acting in concert with a government authorized search or rescue. A person who was attempting to rescue another person or an animal shall not be liable for expenses of an emergency response under this section.

(f) Expenses of an emergency response are a charge against the person liable for those expenses pursuant to subdivision (b) or (c). The charge constitutes a debt of that person and may be collected proportionately as specified in subdivision (g). The debt shall apply only to the person who intentionally, knowingly, and willfully enters the closed area, and not to his or her family, heirs, or assigns. The parent or parents of a minor child who has violated subdivision (b) or (c) may be responsible for the debt.

(g) The debt may be collected proportionately by the public agencies, for-profit entities, and not-for-profit entities that incur the expenses. The liability imposed under this section shall be in addition to, and not in limitation of, any other liability, fines, or fees that are imposed by law.

(h) An insurance policy may exclude coverage for a person's liability for expenses of an emergency response.

(Added Sec. 2, Ch. 51, Stats. 2004. Effective January 1, 2005.)

65089.11. (a) The City/County Association of Governments of San Mateo County, which has been formed by the resolutions of the board of supervisors within San Mateo County and a majority of the city councils within the county that represent a majority of the population in the incorporated area of San Mateo County, may impose a fee of up to four dollars ($4) on motor vehicles registered within San Mateo County. The City/County Association of Governments of San Mateo County may impose the fee only if the board of the association adopts a resolution providing for both the fee and a corresponding program for the management of traffic congestion and stormwater pollution within San Mateo County as set forth in Sections 65089.12 to 65089.15, inclusive. Adoption by the board requires a vote of approval by board members representing two-thirds of the population of San Mateo County.

(b) A fee imposed pursuant to this section shall not become operative until July 1, 2005, pursuant to the resolution adopted by the board in subdivision (a).

(c) The fee shall terminate on January 1, 2009, unless reauthorized by the Legislature.

(Added Sec. 1, Ch. 931, Stats. 2004. Effective January 1, 2005.)

68079. A court for which the necessary seal has not been provided, or the judge or judges of that court, shall provide it. The expense shall be an item of court operations. Until the seal is provided the clerk or judge of each court may use his or her private seal whenever a seal is required.

(Amended Sec. 17, Ch. 824, Stats. 2001. Effective January 1, 2002.)

68097. Witnesses in civil cases may demand the payment of their mileage and fees for one day, in advance, and when so demanded may not be compelled to attend until the allowances are paid except as hereinafter provided for employees of the Department of Justice who are peace officers or analysts in technical fields, peace officers of the Department of the California Highway Patrol, peace officer members of the State Fire Marshal's Office, other state employees, trial court employees, sheriffs, deputy sheriffs, marshals, deputy marshals, district attorney inspectors, probation officers, building inspectors, firefighters, and city police officers. For the purposes of the section and Sections 68097.1 to 68097.10, inclusive, only, the term "peace officer of the California Highway Patrol" shall include those persons employed as vehicle inspection specialists by the Department of the California Highway Patrol, the term "firefighter" has the definition provided in Section 50924, and a volunteer firefighter shall be deemed to be employed by the public entity for which he or she volunteers as a firefighter.

(Amended Sec. 19, Ch. 449, Stats. 2003. Effective January 1, 2004.)

Peace Officer as Civil Witness

68097.10. Whenever an employee of the Department of Justice who is a peace officer or an analyst in a technical field, peace officer of the Department of the California Highway Patrol, peace officer member of the State Fire Marshal's office, sheriff, deputy sheriff, marshal, deputy marshal, firefighter, or city police officer appears as a witness pursuant to Section 68097.1 and reimbursement is not made as provided for in Section 68097.2, then the Department of Justice, the Department of the California Highway Patrol, the State Fire Marshal's office, or the public entity employing the employee, sheriff, deputy sheriff, marshal, deputy marshal, firefighter, or city police officer shall have standing to bring an action in order to recover the funds.

(Amended Sec. 40, Ch. 305, Stats. 1996. Effective January 1, 1997.)

HARBORS AND NAVIGATION CODE

Vessel Repair

410. As used in this article, the following definitions apply:

(a) "Customer" means any person who requests a repairperson to do work on a vessel which is in the possession of that person.

(b) "Repairperson" means any person engaged in the business of repairing vessels.

(c) "Vessel" means any vessel which is subject to registration with the Department of Motor Vehicles and which is manufactured or used for noncommercial purposes or is leased, rented, or chartered to another for noncommercial use.

(Added Ch. 305, Stats. 1986. Effective January 1, 1987.)

412. Notwithstanding Section 502, a repairperson has no lien on a vessel under this article for compensation for services rendered to the vessel, unless the repairperson has complied with this article.

(Added Ch. 305, Stats. 1986. Effective January 1, 1987.)

Possessory Liens on Vessels

500. This article shall be known and may be cited as the "Boaters Lien Law"

(Added Ch. 941, Stats. 1982. Effective January 1, 1983.)

501. As used in this article:

(a) "Department" means the Department of Motor Vehicles or any successor agency thereto which registers vehicles.

(b) "Mail" means first-class mail, postage prepaid, unless registered mail is specified. Registered mail includes certified mail.

(c) "Services" means the making of repairs or performing labor upon or to, and the furnishing of supplies or materials for, any vessel or any trailer used in connection with a vessel.

(d) "Storage" means the safekeeping, mooring, berthage, wharfage, or anchorage of a vessel and the providing of parking space for any trailer used in connection with the vessel.

(e) "Vessel" means every description of watercraft, other than a seaplane on the water or a floating home, used or capable of being used as a means of transportation on the water and required to be registered, excluding any vessel which has a valid marine document issued by the United States or any agency thereof. For the purposes of this article, "vessel" includes any trailer used in connection with the vessel which is in the possession of the lienholder at the time the lien arises.

(Added Ch. 941, Stats. 1982. Effective January 1, 1983.)

501.3. The time a notice or statement is given or sent, unless otherwise expressly provided, means the time a written notice to a person is deposited in the United States mails; or the time any other written notice is personally delivered to the recipient.

(Added Ch. 941, Stats. 1982. Effective January 1, 1983.)

501.5. The possessory vessel lien procedures described by the provisions of this article shall supersede any local ordinance and shall provide the exclusive means of enforcing these liens. Nothing in this article shall be construed as affecting any maritime lien cognizable under any federal law.

(Added Ch. 941, Stats. 1982. Effective January 1, 1983.)

502. (a) Except as provided in Article 1.5 (commencing with Section 410) of Chapter 1 of Division 3, every person has a lien dependent upon possession of the vessel for the compensation to which he or she is legally entitled for services rendered to or storage of any vessel subject to registration with the Department of Motor Vehicles. The lien shall arise at the time a written statement of lien is sent to the registered owner of the vessel which specifies the charges for services or storage rendered and states that the vessel is subject to sale pursuant to the California Boater's Lien Law.

(b) Notwithstanding subdivision (a), no lien provided by this section for storage or service provided upon the request of any person other than the legal owner as shown on the registration certificate of the vessel shall be valid against the interest of the legal owner to the extent that the lien exceeds one thousand five hundred dollars ($1,500) unless the person performing the storage or service obtains the consent of the legal owner to the amount of the excess. The legal owner may limit his or her consent to a specified dollar amount or period of time. The lien claimant shall give actual notice in writing, prior to exceeding that amount, either by personal service or by registered mail to the legal and registered owner or owners as named and at the addresses as shown on the registration certificate, on a standard form provided by the department, containing a description of the storage or services, or both, a description and registration number of the vessel, the name of the registered owner or owners, the dollar amount or rate of the charges for the storage or services, and a statement in boldface type that, with respect to storage charges, consent of the legal owner shall be presumed unless the legal owner notifies the lien claimant within 15 days of receipt of the request for consent that he or she declines to consent to the storage. The lien claimant shall notify the legal owner as shown on the registration certificate of the vessel, by certified mail, that the vessel is subject to sale pursuant to the California Boater's Lien Law and that the lien claimed exceeds one thousand five hundred dollars ($1,500).

(c) Notwithstanding subdivision (b), any claim for the cost of services may exceed the estimate given therefor by an amount not in excess of 10 percent thereof and the lien of the lien claimant shall be valid against the legal owner to the full amount of such excess to the same extent as would be a lien for the original estimate.

(d) With respect to claims for storage charges, a legal owner shall be presumed to consent to storage charges if he or she fails to respond to the request for consent set forth in subdivision (b) within 15 days after receipt thereof, such response to be addressed to the lien claimant at the address stated in the request for consent. In addition, consent in all cases is presumed for the 30-day period immediately following the giving of the request for consent notice.

(e) The legal owner may, upon declining consent, remove the vessel from the lien claimant only upon satisfying the lien of the lien claimant.

(f) Any lien arising under this section shall be extinguished, and no lien sale shall be conducted unless, 60 days after the lien arises, the lienholder does either of the following:

(1) Applies to the department for an authorization to conduct a lien sale.

(2) Files an action on the claim in court.

(g) Nothing in this section shall impair any rights or remedies which are otherwise available to the lien claimant against the registered owner under any other provisions of law.

(Amended Ch. 745, Stats. 1987. Effective January 1, 1988.)

503. (a) A lienholder shall apply to the department for the issuance of an authorization to conduct a lien sale pursuant to the provisions of this section for any vessel with a value determined to be over one thousand five hundred dollars ($1,500). A fee shall be charged by the department and may be recovered by the lienholder if a lien sale is conducted or if the vessel is redeemed. The application shall be executed under penalty of perjury and shall include all of the following information:

(1) A description of the vessel, including make, hull identification number, and state of registration, to the extent available.

(2) The names and addresses of the registered and legal owners of the vessel, if ascertainable from the registration certificate within the vessel, and the name and address of any person whom the lienholder knows or reasonably should know claims a proprietary interest n the vessel.

(3) A statement of the amount of the lien and the facts which give rise to the lien. The statement shall include, as a separate item, an estimate of any additional storage costs accruing pending the lien sale.

(b) Upon receipt of an application made pursuant to subdivision (a), the department shall within 15 days thereafter do the following:

(1) Notify the vessel registry agency of a foreign state of the pending lien sale, if the vessel bears indicia of registration in that state.

(2) By mail, send a notice, a copy of the application, and a return envelope preaddressed to the department to the registered and legal owners at their addresses of record with the department, and to any other person whose name and address is listed in the application.

(3) A vessel registration stop order or title transfer stop order shall be applied by the department at the time the lien claimant requests authorization to conduct the sale.

(4) Notify the applicant of any outstanding property tax lien on the vessel of which the department has been notified pursuant to subdivision (b) of Section 3205 of the Revenue and Taxation Code. The notice required by this paragraph shall identify the county in which any outstanding lien is held.

(c) The notice required pursuant to subdivision (b) shall include all of the following statements:

(1) An application has been made with the department for

authorization to conduct a lien sale and the department has placed a vessel registration stop order or title transfer stop order on the vessel.

(2) Each person to whom notice is sent pursuant to subdivision (b) is entitled to a hearing in court if that person so desires.

(3) If a hearing in court is desired, a declaration of opposition, signed under penalty of perjury, is required to be signed and returned to the department within 15 days of the date that the notice required pursuant to subdivision (b) was mailed.

(4) If the declaration of opposition is signed and returned to the department, the lienholder will be allowed to sell the vessel only if he or she obtains a court judgment or a subsequent release from the declarant.

(5) If a court action is filed, the declarant will be served by mail with legal process in the court proceedings at the address shown on the declaration of opposition and may appear to contest the claim.

(6) The person may be liable for court costs if a judgment is entered in favor of the lienholder.

(d) If the department receives the declaration of opposition in the time provided, the department shall notify the lienholder within 16 days of the receipt of the declaration of opposition that a lien sale shall not be conducted unless the lienholder files an action in court within 60 days of the notice. A lien sale of the vessel shall not be conducted unless judgment is subsequently entered in favor of the lienholder or the declarant subsequently releases his or her interest in the vessel.

(e) Service of legal process on the declarant, with return receipt requested signed by the declarant or an authorized agent of the declarant at the address shown on the declaration of opposition, shall be effective. Return of a declaration of opposition shall constitute consent by the declarant to service of legal process for the desired court hearing upon him or her in the foregoing manner. Notwithstanding subdivision (d) of Section 415.3 of the Code of Civil Procedure, if the lienholder has attempted service upon declarant by that method at the address shown on the declaration of opposition and the mail has been returned unclaimed, the department shall promptly authorize the sale.

(f) Upon receipt of authorization to conduct the lien sale, the lienholder shall do all of the following:

(1) At least 10 days, but not more than 30 days, prior to the lien sale, not counting the day of the sale, give notice of the sale by advertising once in a newspaper of general circulation published in the county in which the vessel is located. If there is no newspaper published in the county, notice shall be given by posting a notice of sale form in three of the most public places in the area in which the vessel is located and at the place where the vessel is to be sold for 10 consecutive days prior to and including the day of the sale.

(2) Send a notice of pending lien sale 20 days prior to the sale, but not counting the day of sale, by mail with return receipt requested, to each of the following:

(A) The registered and legal owners of the vessel, if registered in this state.

(B) All persons known to have an interest in the vessel.

(C) The department.

(g) Upon receipt of the notice, the department shall mark its records and thereafter notify any person having a proprietary interest in the vessel that there is a pending lien sale and that title will not be transferred until the lien is satisfied or released.

(h) All notices required by this section, including the notice forms prescribed by the department, shall specify the make, hull identification number, and state of registration, if available, and the specific date, exact time, and place of sale.

(Amended Ch. 940, Stats. 1994. Effective January 1, 1995.

504. (a) For vessels with a value determined to be one thousand five hundred dollars ($1,500) or less, the department shall promptly furnish the lienholder with the names and addresses of the registered and legal owners of record.

(b) The lienholder shall, immediately upon receipt of the names and addresses, send by mail, with return receipt requested, a completed notice of pending lien sale form, a blank declaration of opposition form, and a return envelope preaddressed to the department, to the registered owner and legal owner at their addresses of record with the department, to any other person known to have a proprietary interest in the vessel, and to the department.

(c) Upon receipt of the notice, the department shall mark its records and thereafter notify any person having a proprietary interest in the vessel that there is a pending lien sale and that title will not be transferred until the lien is satisfied or released.

(d) All notices shall be signed under penalty of perjury and shall include all of the following information and statements:

(1) A description of the vessel, including make, identification number, and state of registration, to the extent available.

(2) The specific date, exact time, and place of sale, which shall be set not less then 35 days, but not more than 60 days, from the date of mailing.

(3) The names and addresses of the registered and legal owners of the vessel and any other person known to have an interest in the vessel.

(4) All of the following statements:

(A) The amount of the lien and the facts which give rise to the lien. The statement shall include, as a separate item, an estimate of any additional storage costs accruing pending the lien sale.

(B) The person has a right to a hearing in court.

(C) If a court hearing is desired, a declaration of opposition signed under penalty of perjury is required to be signed and returned to the department within 15 days of the date the notice of pending lien sale was mailed.

(D) If the declaration of opposition is signed and returned, the lienholder will be allowed to sell the vessel only if he or she obtains a court judgment or if he or she obtains a subsequent release from the declarant.

(E) If a court action is filed, the declarant will be served by mail with legal process in the court proceedings at the address shown on the declaration of opposition and may appear to contest the claim.

(F) The person may be liable for court costs if a judgment is entered in favor of the lienholder.

(e) If the department receives the completed declaration of opposition within the time provided, the department shall notify the lienholder within 16 days that a lien sale shall not be conducted unless the lienholder files an action in court within 20 days of the notice and judgment is subsequently entered in favor of the lienholder or the declarant subsequently releases his interest in the vessel.

(f) Service on the declarant by mail with return receipt requested, signed by the declarant or an authorized agent of the declarant at the address shown on the declaration of opposition, shall be effective. Return of a declaration of opposition shall constitute consent by the declarant to service of legal process for the desired court hearing upon him or her in the foregoing manner. If the lienholder has attempted service upon the declarant by that method at the address shown on the declaration of opposition and the mail has been returned unclaimed, the lienholder may proceed with the sale.

(Added Ch. 941, Stats. 1982. Effective January 1, 1983.)

505. (a) A registered or legal owner of a vessel may release any interest in the vessel after the lien has arisen. The release shall be dated when signed and a copy shall be given at the time the release is signed to the person releasing the interest.

(b) The release shall be in at least 12-point type and shall contain all of the following information in simple, nontechnical language:

(1) A description of the vessel, including the make, the identification number, and the state of registration, to the extent available.

(2) The names and addresses of the registered and legal owners of record with the department, to the extent available.

(3) A statement of the amount of the lien and the facts which give rise to the lien.

(4) A statement that the person releasing the interest understands that (i) he or she has a legal right to a hearing in court prior to any sale of the vessel to satisfy the lien and (ii) he or she is giving up the right to appear to contest the claim of the lienholder.

(5) A statement that (i) the person releasing the interest gives up any interest he or she may have in the vessel and (ii) he or she is giving the lienholder permission to sell the vessel.

(c) The release required by this section shall be filed with the department in connection with any transfer of interest in a vessel following a lien sale.

(Added Ch. 941, Stats. 1982. Effective January 1, 1983.)

505.5. (a) Whenever the lien upon any vessel is lost by reason of the loss of possession through trick, fraud, or device, the repossession of the vessel by the former lienholder claimant revives the lien but any lien so revived is subordinate to any right, title, or interest of any

person under any sale, transfer, encumbrance, lien, or other interest acquired or secured in good faith and for value between the time of the loss of possession and the time of repossession.

(b) It is a misdemeanor for any person to obtain possession of any vessel or any part thereof subject to a lien pursuant to the provisions of this chapter by trick, fraud, or device.

(c) It is a misdemeanor for any person claiming a lien on a vessel to knowingly violate any provisions of this article.

(Added Ch. 941, Stats. 1982. Effective January 1, 1983.)

506. No lien sale shall be undertaken pursuant to Section 503 or 504 unless the vessel has been available for inspection at a location easily accessible to the public for at least one hour before the sale and is at the place of sale at the time and date specified on the notice of sale. Sealed bids shall not be accepted. The lienholder shall conduct the sale in a commercially reasonable manner.

(Added Ch. 941, Stats. 1982. Effective January 1, 1983.)

506.5. Within 10 days after the sale of any vessel pursuant to the provisions of Section 503 or 504, the legal or registered owner may redeem the vessel upon the payment of the amount of the lien, all costs and expenses of the lien, together with interest on that sum at the legal rate from the due date thereof until the repayment. If the vessel is not redeemed, all lien sale documents required by the department to effect transfer of title shall then be completed and delivered to the buyer.

(Added Ch. 941, Stats. 1982. Effective January 1, 1983.)

507. (a) Except as provided in subdivision (b), at the time a lienholder applies to the department to conduct a sale under Section 504, the lienholder shall submit with the application a declaration by a licensed yacht and ship broker of the fair market value of the described vessel at a specific date within 30 days of that submission. The opinion need not be based upon a marine survey, but shall be based on a physical inspection of the vessel. No cause of action shall lie against the declarant on account of the opinion given.

(b) The declaration specified in subdivision (a) is not required if a public agency removes an abandoned vessel, or arranges, by contract, for the removal of the vessel, from a highway or from public or private property.

(1) For lien sale purposes, the public agency which removed the vessel, or arranged for the removal, shall determine if the estimated value of the vessel that has been ordered removed or stored is one thousand five hundred dollars ($1,500) or less.

(2) If the public agency fails or refuses to determine the estimated value of the vessel within three days after the date of removal of the vessel, the lienholder or the lienholder's agent shall determine, under penalty of perjury, if the estimated value of the vessel that has been ordered removed or stored is one thousand five hundred dollars ($1,500) or less.

(Amended Ch. 310, Stats. 1986. Effective January 1, 1987.)

507.5. The proceeds of a vessel lien sale shall be disposed of as follows:

(a) The amount necessary to discharge the lien and the actual cost of selling the vessel shall be paid to the lienholder. Actual cost of sale shall include any fees charged by the department, publication fees, postage and service of notices, whether incurred as a result of a sale or redemption by the registered or legal owner without a sale. The actual cost of sale shall not exceed one hundred dollars ($100) for a vessel without a trailer and one hundred twenty-five dollars ($125) for a vessel with a trailer, exclusive of the charges of the department.

(b) The balance, if any, shall be forwarded to the department within 15 days of any sale. Within 30 days thereafter, the department shall send notice of the receipt of the funds, if the amount thereof exceeds ten dollars ($10), to the legal and registered owners at the most current addresses shown in the department's records.

(c) Any person claiming an interest in the vessel may file a claim with the department for any portion of the funds forwarded to the department pursuant to subdivision (b). Upon determination of the department that the claimant is entitled to a portion of those funds, the department shall pay any entitled amount which does not exceed the balance of the funds remaining on deposit with the department that pertain to the vessel. The department shall not honor any claim unless the claim has been filed within three years of the date the funds were received. At the end of each fiscal year the department shall deposit in the Harbors and Watercraft Revolving Fund all funds held by it for which no claim was filed within the three-year period.

(Added Ch. 941, Stats. 1982. Effective January 1, 1983.)

508. Any lien provided for in this article for repairs, labor, supplies, or materials, or for storage or safekeeping of a vessel may be assigned by written instrument accompanied by delivery of possession of the vessel subject to the lien, and the assignee may exercise the rights of a lienholder as provided in this article. Any lienholder assigning a lien as authorized in this section shall at the time of assigning the lien give written notice of the assignment either by personal delivery of by certified mail, to the registered and legal owners of the vessel, indicating the name and address of the person to whom the lien is assigned.

(Added Ch. 941, Stats. 1982. Effective January 1, 1983.)

508.5. All forms required pursuant to this article shall be prescribed by the department. Language used in the notices and declarations shall be simple and nontechnical.

(Added Ch. 941, Stats. 1982. Effective January 1, 1983.)

509. No lien shall attach to any personal property in or on the vessel except that which is carried on the vessel for lifesaving, safety, mooring, and operating purposes. Personal property not subject to lien shall be given to the registered owner or the owner's authorized agent upon demand.

(Added Ch. 941, Stats. 1982. Effective January 1, 1983.)

651.5. The Department of Motor Vehicles shall provide every person who originally registers, or who acquires the ownership certificate of, a vessel required to be numbered pursuant to Division 3.5 (commencing with Section 9840) of the Vehicle Code with a copy of guidelines for safe vessel operation prepared by the Department of Boating and Waterways.

(Amended Ch. 216, Stats. 1988. Effective January 1, 1989.)

654.03. (a) A person may not manufacture for sale a motorized recreational vessel that is not equipped with a muffler or muffler system, as defined in subdivision (a) of Section 654, that brings the vessel into compliance with paragraph (2) of subdivision (a) of Section 654.05, except as authorized under subdivision (b).

(b) A person may manufacture for sale a motorized recreational vessel that is not equipped as required under subdivision (a) if the vessel is designed, manufactured, and sold for the sole purpose of competing in racing events.

(c) A person may not sell a vessel that is exempted under subdivision (b) unless there is compliance with both of the following:

(1) The sales agreement includes a statement that the vessel is designed, manufactured, and sold for the sole purpose of competing in racing events and may not be operated in or upon the inland waters, or in or upon ocean waters that are within one mile of the coastline of the state, except under the conditions described in subdivision (c) of Section 654.

(2) The statement described in paragraph (1) is signed by both the buyer and the seller.

(d) Both the buyer and the seller of a vessel exempted under subdivision (b) shall maintain copies of the sales agreement described in paragraph (1) of subdivision (c).

(e) A person may not operate a vessel that is exempted under subdivision (b) unless a copy of the sales agreement described in paragraph (1) of subdivision (c) is on board the vessel.

(f) A person may not operate a vessel that is exempted under subdivision (b) in or upon the inland waters, or in or upon ocean waters within one mile of the coastline of the state, except under the conditions described in subdivision (c) of Section 654.

(g) This section shall become operative on January 1, 2005.

(Added Sec. 3, Ch. 496, Stats. 2003. Effective January 1, 2004. Operative January 1, 2005.)

654.05. (a) The owner of a motorized recreational vessel that is numbered pursuant to Section 9850 of the Vehicle Code, or that is documented by an agency of the federal government, shall not operate, or authorize the operation of, the vessel in or upon the inland waters, or in or upon ocean waters that are within one mile of the coastline of the state, in a manner that exceeds the following noise levels:

(1) For engines manufactured before January 1, 1993, a noise level of 90 dB(A) when subjected to the Society of Automotive Engineers Recommended Practice SAE J2005 (Stationary Sound Level Measurement Procedure for Pleasure Motorboats).

(2) For engines manufactured on or after January 1, 1993, a noise level of 88 dB(A) when subjected to the Society of Automotive Engineers Recommended Practice SAE J2005 (Stationary Sound Level Measurement Procedure for Pleasure Motorboats).

(3) A noise level of 75 dB(A) measured as specified in the Society of Automotive Engineers Recommended Practice SAE J1970 (Shoreline Sound Level Measurement Procedure). However, a measurement of noise level that is in compliance with this paragraph does not preclude the conducting of a test of noise levels under paragraph (1) or (2).

(b) A law enforcement officer utilizing a decibel measuring device for the purposes of enforcing this section shall be knowledgeable and proficient in the use of that device.

(c) The department may, by regulation, revise the measurement procedure when deemed necessary to adjust to advances in technology.

(d) This section does not apply to motorized recreational vessels competing under a local public entity or United States Coast Guard permit in a regatta, in a boat race, while on trial runs, or while on official trials for speed records during the time and in the designated area authorized by the permit. In addition, this section does not apply to motorized recreational vessels preparing for a race or regatta if authorized by a permit issued by the local entity having jurisdiction over the area where these preparations occur.

(e) This section shall become operative on January 1, 2005.

(Amended Sec. 1, Ch. 130, Stats. 2004. Effective January 1, 2005.)

654.5. Any person who maliciously throws, hurls, or projects any object by manual, mechanical, or other means at a vessel or any occupant of a vessel on any of the waters within or bordering on this state, which act does not constitute a violation of either Section 242 or 594 of the Penal Code, is guilty of a misdemeanor, and upon first conviction the punishment shall be a fine not to exceed one hundred dollars ($100) or imprisonment in the county jail not to exceed 30 days, or both that fine and imprisonment. Upon a second or subsequent conviction, the punishment shall be a fine of not to exceed two hundred fifty dollars ($250) or imprisonment in the county jail not to exceed 60 days, or both that fine and imprisonment.

(Amended Ch. 160, Stats. 1988. Effective January 1, 1989.)

655. (a) No person shall use any vessel or manipulate water skis, an aquaplane, or a similar device in a reckless or negligent manner so as to endanger the life, limb, or property of any person. The department shall adopt regulations for the use of vessels, water skis, aquaplanes, or similar devices in a manner that will minimize the danger to life, limb, or property consistent with reasonable use of the equipment for the purpose for which it was designed.

(b) No person shall operate any vessel or manipulate water skis, an aquaplane, or a similar device while under the influence of an alcoholic beverage, any drug, or the combined influence of an alcoholic beverage and any drug.

(c) No person shall operate any recreational vessel or manipulate any water skis, aquaplane, or similar device if the person has an alcohol concentration of 0.08 percent or more in his or her blood.

(d) No person shall operate any vessel other than a recreational vessel if the person has an alcohol concentration of 0.04 percent or more in his or her blood.

(e) No person shall operate any vessel, or manipulate water skis, an aquaplane, or a similar device who is addicted to the use of any drug. This subdivision does not apply to a person who is participating in a narcotic treatment program approved pursuant to Article 3 (commencing with Section 11875) of Chapter 1 of Part 3 of Division 10.5 of the Health and Safety Code.

(f) No person shall operate any vessel or manipulate water skis, an aquaplane, or a similar device while under the influence of an alcoholic beverage, any drug, or under the combined influence of an alcoholic beverage and any drug, and while so operating, do any act forbidden by law, or neglect any duty imposed by law in the use of the vessel, water skis, aquaplane, or similar device, which act or neglect proximately causes bodily injury to any person other than himself or herself.

(g) Notwithstanding any other provision of law, information, verbal or otherwise, which is obtained from a commissioned, warrant, or petty officer of the United States Coast Guard who directly observed the offense may be used as the sole basis for establishing the necessary reasonable cause for a peace officer of this state to make an arrest pursuant to the United States Constitution, the California Constitution, and Section 836 of the Penal Code for violations of subdivisions (b), (c), (d), and (e) of this section.

(h) In any prosecution under subdivision (c), it is a rebuttable presumption that the person had 0.08 percent or more, by weight, of alcohol in his or her blood at the time of operation of a recreational vessel if the person had an alcohol concentration of 0.08 percent or more in his or her blood at the time of the performance of a chemical test within three hours after the operation.

(i) In any prosecution under subdivision (d), it is a rebuttable presumption that the person had 0.04 percent or more, by weight, of alcohol in his or her blood at the time of operation of a vessel other than a recreational vessel if the person had an alcohol concentration of 0.04 percent or more in his or her blood at the time of the performance of a chemical test within three hours after the operation.

(j) Upon the trial of any criminal action, or preliminary proceeding in a criminal action, arising out of acts alleged to have been committed by any person who was operating a vessel or manipulating water skis, an aquaplane, or a similar device while under the influence of an alcoholic beverage in violation of subdivision (b) or (f), the amount of alcohol in the person's blood at the time of the test, as shown by a chemical test of that person's blood, breath, or urine, shall give rise to the following presumptions affecting the burden of proof:

(1) If there was at that time less than 0.05 percent, by weight, of alcohol in the person's blood, it shall be presumed that the person was not under the influence of an alcoholic beverage at the time of the alleged offense.

(2) If there was at that time 0.05 percent or more, but less than 0.08 percent, by weight, of alcohol in the person's blood, that fact shall not give rise to any presumption that the person was or was not under the influence of an alcoholic beverage, but the fact may be considered with other competent evidence in determining whether the person was under the influence of an alcoholic beverage at the time of the alleged offense.

(3) If there was at that time 0.08 percent or more, by weight, of alcohol in the person's blood, it shall be presumed that the person was under the influence of an alcoholic beverage at the time of the alleged offense.

(k) This section does not limit the introduction of any other competent evidence bearing upon the question whether the person ingested any alcoholic beverage or was under the influence of an alcoholic beverage at the time of the alleged offense.

(l) This section applies to foreign vessels using waters subject to state jurisdiction.

(Amended Sec. 1, Ch. 23, Stats. 1997. Effective January 1, 1998.)

655.6. (a) It is an infraction for a person under the age of 21 years who has 0.01 percent or more, by weight, of alcohol in his or her blood to operate any motorized vessel or manipulate water skis, an aquaplane, or a similar device.

(b) A person may be found to be in violation of subdivision (a) if the person was, at the time of operating any motorized vessel or manipulating water skis, an aquaplane, or a similar device, under the age of 21 years and under the influence of, or affected by, an alcoholic beverage regardless of whether a chemical test was made to determine that person's blood-alcohol concentration and if the trier of fact finds that the person had consumed an alcoholic beverage and was operating any motorized vessel or manipulating water skis, an aquaplane, or a similar device while having a concentration of 0.01 percent or more, by weight, of alcohol in his or her blood.

(c) Section 655.1 applies to violations of this section.

(d) A violation of this section is punishable by a fine not exceeding one hundred dollars ($100). A second violation occurring within one year of a prior violation which resulted in a conviction is punishable by a fine not exceeding two hundred dollars ($200). A third or any subsequent conviction within a period of one year of two or more prior infractions which resulted in convictions is punishable by a fine not exceeding two hundred fifty dollars ($250). A person found to have committed a violation of this section shall be required to participate in an alcohol education or community service program as provided in Section 23502 of the Vehicle Code.

(Amended Sec. 1.2, Ch. 118, Stats. 1998. Effective January 1, 1999. Operative July 1, 1999.)

656. (a) It is the duty of the operator of a vessel involved in a collision, accident, or other casualty, so far as the operator can do so without serious danger to his or her own vessel, crew, and passengers, to render to other persons affected by the collision, accident, or other casualty such assistance as may be practicable and as may be necessary in order to save them from, or minimize any, danger caused by the collision, accident, or other casualty.

(b) Any person who complies with subdivision (a) or Section 656.1, 656.2, or 656.3 or who gratuitously and in good faith renders assistance at the scene of a vessel collision, accident, or other casualty without objection by any person assisted, shall not be held liable for any civil damages sought as a result of the rendering of assistance or for any act or omission in providing or arranging salvage, towage, medical treatment, or other assistance, where the assisting person has acted as an ordinary, reasonably prudent person would have acted under the same or similar circumstances.

(c) (1) An individual employee of a public entity engaged in rescue pursuant to this code shall not be a proper party defendant and shall be dismissed on motion, unless the employee has violated a statute other than a statute creating a general obligation to rescue or is guilty of oppression, fraud, malice, or the conscious disregard of the safety of others.

(2) The public entity employing such an individual shall be liable in civil damages where the individual employee has failed to act as a reasonably prudent person would have acted under the same or similar circumstances.

(3) Where a public entity has given a reasonable printed, electronic, or verbal warning of the danger causing the distress which created the necessity for the rescue, and there has been a reasonable opportunity for the party in distress to receive the warning, the public entity shall be liable only for acts or omissions of its employee which were taken in a grossly negligent manner.

(d) The owner, operator, or other person on board a vessel involved in a casualty or accident shall report the casualty or accident in accordance with regulations adopted by the department. The department shall adopt regulations to maintain a uniform casualty and accident reporting system for vessels subject to this code in conformity with federal casualty and accident reporting regulations promulgated by the United States Coast Guard or any successor thereto. Consistent with Public Law 92-75 and the federal regulations contained in Part 173 of Title 33 of the Code of Federal Regulations, a peace officer or harbor policeman, upon receiving an initial report of a casualty involving the death or disappearance of a person as a result of a boating accident, shall immediately forward the report, by quickest means available, to the department.

(e) Neither the report required by this section nor any action taken by the department with regard to the report shall be referred to in any way, or be any evidence of negligence or due care of any party, at the trial of any action at law to recover damages.

(f) All required accident reports, and supplemental reports, shall be without prejudice to the individual so reporting and shall be for the confidential use of the department and any peace officer actually engaged in the enforcement of this chapter, except that the department shall disclose the names and addresses of persons involved in, or witnesses to, an accident, the registration numbers and descriptions of vessels involved, and the date, time, and location of an accident to any person who may have a proper interest therein, including the operators involved or the legal guardian thereof, the parent of a minor operator, the authorized representative of an operator, or any person injured therein and the owners of vessels or property damaged thereby.

(g) This section applies to foreign vessels, military or public recreational-type vessels, vessels owned by a state or subdivision thereof, and ship's lifeboats otherwise exempted from this chapter pursuant to Section 650.1.

(Amended Ch. 877, Stats. 1986. Effective January 1, 1987.)

656.1. The operator of any vessel involved in an accident in the waters of this state who knows or has reason to know that the accident resulted in damage to other property shall, if reasonable to do so under the circumstances, stop at the scene of the accident and shall do either of the following:

(a) Locate and notify the owner or person in charge of the damaged property of the name and address of the operator and owner of the vessel involved, and upon locating the owner or operator of any other vessel involved, or the owner or person in charge of any other property damaged, upon being requested, exhibit the vessel registration and furnish the current residence address of the vessel's owner and operator to the other person.

(b) If the owner or person in charge of the damaged property or the owner or operator of any other vessel involved cannot be located, leave, in a conspicuous place on the property damaged or other vessel involved, a written notice giving the name and address of the operator and of the owner of the vessel involved and a statement of the circumstances of the accident, and, without unnecessary delay, notify the law enforcement agency having jurisdiction over the waterway or, if unknown, the sheriff of the county in which the accident occurred.

(Added Ch. 877, Stats. 1986. Effective January 1, 1987.)

656.2. In addition to the requirements of Section 656.1, the operator of any vessel involved in an accident in the waters of this state who knows or has reason to know that the accident resulted in injury to any person shall furnish his or her name, address, and the registration number of the vessel, and the name of the owner, to the person injured, or occupant of any other vessel involved, or shall furnish that information to any peace officer at the scene of the accident, and shall render to any injured person reasonable assistance, including transportation for medical treatment if required or requested by the injured person, so far as the operator can do so without serious danger to the vessel or passengers.

(Added Ch. 877, Stats. 1986. Effective January 1, 1987.)

656.3. In addition to the requirements of Sections 656.1 and 656.2, the operator of any vessel involved in an accident in the waters of this state who knows or has reason to know that the accident resulted in the death or disappearance of any person shall, after fulfilling the requirements of this division, and if there is no peace officer at the scene of the accident to whom to furnish the information required by Section 656.2, without delay, report the accident to the law enforcement agency having jurisdiction over the waterway or, if unknown, the sheriff of the county in which the accident occurred.

(Added Ch. 877, Stats. 1986. Effective January 1, 1987.)

658.3. (a) No person shall operate a motorboat, sailboat, or vessel that is 26 feet or less in length, unless every person on board who is 11 years of age or less is wearing a type I, II, III, or V Coast Guard-approved personal flotation device while that motorboat, sailboat, or vessel is underway.

(b) Subdivision (a) does not apply to a person operating a sailboat on which a person who is 11 years of age or less is restrained by a harness tethered to the vessel, or to a person operating a vessel on which a person who is 11 years of age or less is in an enclosed cabin.

(c) Any person on board a personal watercraft or any person being towed behind a vessel on water skis, an aquaplane, or similar device, except for any underwater maneuvering device intended for use by a submerged swimmer, shall wear a type I, II, III, or V Coast Guard-approved personal flotation device. An underwater maneuvering device is any towed or self-powered apparatus that a person can pilot through diving, turning, and surfacing maneuvers that is designed for underwater use.

(1) This subdivision does not apply to a person aboard a personal watercraft or a person being towed behind a vessel on water skis, if that person is a performer engaged in a professional exhibition, or preparing to participate or participating in an official regatta, marine parade, tournament, or exhibition.

(2) In lieu of wearing a Coast Guard-approved personal flotation device of a type described in this subdivision, any person engaged in slalom skiing on a marked course or any person engaged in barefoot, jump, or trick waterskiing may elect to wear a wetsuit designed for the activity and labeled by the manufacturer as a water ski wetsuit. A Coast Guard-approved personal flotation device of a type described in this subdivision shall be carried in the tow vessel for each skier electing to wear a water ski wetsuit pursuant to this paragraph.

(d) The requirements set forth in subdivisions (a) and (c) do not apply to a person operating a motorboat, sailboat, or vessel if the operator is reacting to an emergency rescue situation.

(e) The following definitions govern the construction of this section:

(1) "Enclosed cabin" means a space on board a vessel that is surrounded by bulkheads and covered by a roof.

(2) "Operate a motorboat, sailboat, or vessel" means to be in control or in charge of a motorboat, sailboat, or vessel while it is underway.

(3) "Underway" means all times except when the motorboat, sailboat, or vessel is anchored, moored, or aground.

(f) A violation of this section is an infraction punishable as provided in subdivision (a) of Section 668.

(Amended Sec. 2, Ch. 383, Stats. 2002. Effective January 1, 2003.)

658.5. (a) Except as provided in subdivision (b), no person under 16 years of age shall operate a vessel powered by a motor of greater than 15 horsepower, except for a vessel that does not exceed 30 feet

in length and is designed to use wind as its principal source of propulsion, or a dinghy used directly between a moored vessel and the shoreline or between a moored vessel and another moored vessel.

(b) Except as provided in subdivision (a), no person 12, 13, 14, or 15 years of age shall operate a vessel powered by a motor of greater than 15 horsepower, or a vessel that exceeds 30 feet in length and is designed to use wind as its principal source of propulsion, unless the person is accompanied in the vessel by a person who is at least 18 years of age and who is attentive and supervising the operation of the vessel.

(c) Subdivisions (a) and (b) do not apply to any of the following:

(1) A person who operates a vessel as a performer in a professional exhibition.

(2) A person engaged in an organized regatta, vessel race, or water ski race.

(3) A person engaged in a marine event authorized pursuant to Section 268.

(d) Any person who violates this section, and any person who permits any other person under 16 years of age to operate a vessel in violation of this section, is guilty of an infraction.

(Repealed Sec. 1, and added Sec. 2, Ch. 747, Stats. 1997. Effective January 1, 1998.)

663.1. Notwithstanding any other provision of law, a peace officer may, without a warrant, arrest a person who is involved in an accident in the waters of this state involving a vessel when the officer has reasonable cause to believe that the person had been operating the vessel while under the influence of an alcoholic beverage or any drug, or under the combined influence of an alcoholic beverage and any drug.

(Added Ch. 877, Stats. 1986. Effective January 1, 1987.)

668. (a) Any person who violates subdivision (c) of Section 652, Section 654, 654.05, 654.06, 655.7, 658.3, 659, 673, 674, or 754, or any regulations adopted pursuant thereto, or any regulation adopted pursuant to Section 655.3 relating to vessel equipment requirements, is guilty of an infraction, punishable by a fine of not more than two hundred fifty dollars ($250).

(b) (1) Any person who violates Section 655.2, or any regulation adopted pursuant thereto, or, except as provided in subdivision (a), any regulation adopted pursuant to Section 655.3, is guilty of a misdemeanor and shall be punished by a fine of not more than one hundred dollars ($100) or imprisonment in the county jail for not more than five days, or by both that fine and imprisonment, for each violation.

(2) Any person who violates subdivision (a) or (b) of Section 658 is guilty of a misdemeanor and shall be punished by a fine of not more than two hundred dollars ($200) for each violation.

(3) Any person who violates subdivision (d) of Section 652, Section 652.5, subdivision (a) of Section 655, Section 655.05, 656, or 656.1, subdivision (d) or (e) of Section 658, Section 663.6 or 665, or any rules and regulations adopted pursuant to subdivision (b) or (c) of Section 660, is guilty of a misdemeanor and shall be punished by a fine of not more than one thousand dollars ($1,000) or imprisonment in the county jail for not more than six months, or by both that fine and imprisonment, for each violation.

(c) (1) Any person convicted of a violation of Section 656.2 or 656.3 shall be punished by a fine of not less than one thousand dollars ($1,000) or more than ten thousand dollars ($10,000), or by imprisonment in the state prison or in the county jail for not more than one year, or by both that fine and imprisonment.

(2) In imposing the minimum fine required by this subdivision, the court shall take into consideration the defendant's ability to pay the fine and, in the interest of justice for reasons stated in the record, may reduce the amount of that minimum fine to less than the amount otherwise required by this subdivision.

(d) Any person convicted of a violation of Section 658.5 shall be punished by a fine of not more than one hundred dollars ($100).

(e) Any person convicted of a first violation of subdivision (b), (c), (d), or (e) of Section 655, or of a violation of Section 655.4, shall be punished by a fine of not more than one thousand dollars ($1,000) or imprisonment in the county jail for not more than six months, or by both that fine and imprisonment. If probation is granted, the court, as a condition of probation, may require the person to participate in, and successfully complete, an alcohol or drug education, training, or treatment program, in addition to imposing any penalties required by this code. In order to enable all persons to participate in licensed programs, every person referred to a program licensed pursuant to Section 11836 of the Health and Safety Code shall pay that program's costs commensurate with that person's ability to pay as determined by Section 11837.4 of the Health and Safety Code.

(f) Any person convicted of a second or subsequent violation of subdivision (b), (c), (d), or (e) of Section 655 within seven years of the first conviction of any of those subdivisions or subdivision (f) of Section 655, or any person convicted of a violation of subdivision (b), (c), (d), or (e) of Section 655 within seven years of a separate conviction of Section 191.5 or subdivision (c) of Section 192.5 of the Penal Code, when the separate conviction resulted from the operation of a vessel, or a separate conviction of Section 23152 or 23153 of the Vehicle Code or of Section 191.5 or paragraph (3) of subdivision (c) of Section 192 of the Penal Code, when the separate conviction resulted from the operation of a motor vehicle, shall be punished by a fine of not more than one thousand dollars ($1,000) or imprisonment in the county jail for not more than one year, or by both that fine and imprisonment. If probation is granted, the court, as a condition of probation, may require the person to do either of the following, if available in the county of the person's residence or employment:

(1) Participate, for at least 18 months subsequent to the underlying conviction and in a manner satisfactory to the court, in a program licensed pursuant to Chapter 9 (commencing with Section 11836) of Part 2 of Division 10.5 of the Health and Safety Code, as designated by the court. In order to enable all required persons to participate, each person shall pay the program costs commensurate with the person's ability to pay as determined pursuant to Section 11837.4 of the Health and Safety Code.

(2) Participate, for at least 30 months subsequent to the underlying conviction and in a manner satisfactory to the court, in a program licensed pursuant to Chapter 9 (commencing with Section 11836) of Part 2 of Division 10.5 of the Health and Safety Code. A person ordered to treatment pursuant to this paragraph shall apply to the court or to a board of review, as designated by the court, at the conclusion of the program to obtain the court's order of satisfaction. Only upon the granting of that order of satisfaction by the court may the program issue its certificate of successful completion. A failure to obtain an order of satisfaction at the conclusion of the program is a violation of probation. In order to enable all required persons to participate, each person shall pay the program costs commensurate with the person's ability to pay as determined pursuant to Section 11837.4 of the Health and Safety Code. No condition of probation required pursuant to this paragraph is a basis for reducing any other probation requirement.

(g) Any person convicted of a violation of subdivision (f) of Section 655 shall be punished by imprisonment in the state prison, or in the county jail for not less than 90 days or more than one year, and by a fine of not less than two hundred fifty dollars ($250) or more than five thousand dollars ($5,000). If probation is granted, the court, as a condition of probation, may require the person to participate in, and successfully complete, a program licensed pursuant to Chapter 9 (commencing with Section 11836) of Part 2 of Division 10.5 of the Health and Safety Code, if available in the person's county of residence or employment, as designated by the court. In order to enable all required persons to participate, each person shall pay the program costs commensurate with the person's ability to pay as determined pursuant to Section 11837.4 of the Health and Safety Code.

(h) (1) If any person is convicted of a violation of subdivision (f) of Section 655 within seven years of a separate conviction of a violation of subdivision (b), (c), (d), or (e) of Section 655 and is granted probation, the court shall impose as a condition of probation that the person be confined in the county jail for not less than five days or more than one year and pay a fine of not less than two hundred fifty dollars ($250) or more than five thousand dollars ($5,000).

(2) If any person is convicted of a violation of subdivision (f) of Section 655 within seven years of a separate conviction of a violation of subdivision (f) of Section 655, of Section 191.5 or subdivision (c) of Section 192.5 of the Penal Code, when the prior conviction resulted from the operation of a vessel, or Section 23152 or 23153 of the Vehicle Code or Section 191.5 or paragraph (3) of subdivision (c) of Section 192 of the Penal Code, when the separate conviction resulted from the operation of a motor vehicle, and is granted probation, the court shall impose as a condition of probation that the person be confined in the county jail for not less than 90 days or more than one year, and pay a fine of not less than two hundred fifty dollars ($250) or more than five thousand dollars ($5,000), and the court, as a

condition of probation, may order that the person participate in a manner satisfactory to the court, in a program licensed pursuant to Chapter 9 (commencing with Section 11836) of Part 2 of Division 10.5 of the Health and Safety Code, if available in the county of the person's residence or employment. In order to enable all required persons to participate, each person shall pay the program costs commensurate with the person's ability to pay as determined pursuant to Section 11837.4 of the Health and Safety Code.

(i) The court shall not absolve a person who is convicted of a violation of subdivision (f) of Section 655 within seven years of a separate conviction of a violation of subdivision (b), (c), (d), (e), or (f) of Section 655, of Section 191.5 or subdivision (c) of Section 192.5 of the Penal Code, when the separate conviction resulted from the operation of a vessel, or Section 23152 or 23153 of the Vehicle Code or Section 191.5 or paragraph (3) of subdivision (c) of Section 192 of the Penal Code, when the separate conviction resulted from the operation of a motor vehicle, from the minimum time in confinement provided in this section and a fine of at least two hundred fifty dollars ($250), except as provided in subdivision (h).

(j) Except in unusual cases where the interests of justice demand an exception, the court shall not strike a separate conviction of an offense under subdivision (b), (c), (d), (e), or (f) of Section 655 or of Section 191.5 or subdivision (c) of Section 192.5 of the Penal Code, when the prior conviction resulted from the operation of a vessel, or Section 23152 or 23153 of the Vehicle Code or Section 191.5 or paragraph (3) of subdivision (c) of Section 192 of the Penal Code, when the separate conviction resulted from the operation of a motor vehicle, for purposes of sentencing in order to avoid imposing, as part of the sentence or as a term of probation, the minimum time in confinement and the minimum fine, as provided in this section. When a separate conviction is stricken by the court for purposes of sentencing, the court shall specify the reason or reasons for the striking order. On appeal by the people from an order striking a separate conviction, it shall be conclusively presumed that the order was made only for the reasons specified in the order, and the order shall be reversed if there is no substantial basis in the record for any of those reasons. .

(k) A person who flees the scene of the crime after committing a violation of Section 191.5, paragraph (1) or (3) of subdivision (c) of Section 192, or subdivision (a) or (c) of Section 192.5 of the Penal Code shall be subject to subdivision (c) of Section 20001 of the Vehicle Code.

(Amended Sec. 1, Ch. 500, Stats. 1999. Effective January 1, 2000.)

668.1. (a) Any person convicted of a violation of subdivision (a), (b), (c), (d), (e), or (f) of Section 655, or of Section 655.2, 655.6, 655.7, 658, or 658.5, or of Section 191.5 of the Penal Code, or of the federal rules of the road and pilot rules, not including equipment requirements, incorporated by reference in Section 6600.1 of Title 14 of the California Code of Regulations, or found by a court to have performed any of the acts described in Section 6697 of Title 14 of the California Code of Regulations, pertaining to a mechanically propelled vessel but not to manipulating any water skis, an aquaplane, or similar device, when the conviction resulted from the operation of a vessel, shall be ordered by the court to complete and pass a boating safety course approved by the department pursuant to Section 668.3.

(b) Any person who has been ordered by the court to complete and pass a boating safety course pursuant to this section shall submit to the court proof of completion and passage of the course within seven months of the time of his or her conviction. The proof shall be in a form that has been approved by the department and that provides for the ability to submit the form to the court through the United States Postal Service. If the person who has been required to complete and pass a boating safety course is under 18 years of age, the court may require that the person obtain parental consent to enroll in the course. If the person does not complete and pass the boating safety course, the court may extend the period for completion or impose another penalty as prescribed by statute.

(c) The department shall adopt regulations to carry out this section, including approval of boating safety education courses, as specified in Section 668.3, prescribing the forms for proof of completion and passage, approval of testing to indicate appropriate mastery of the course subject matter, and setting forth any fees to be charged to course participants, which fees shall not exceed the expenses associated with providing the course.

(Amended Sec. 3, Ch. 383, Stats. 2002. Effective January 1, 2003.)

710. The definitions of "broker" and "salesperson," as set forth in Section 701, do not include the following:

(a) A person who directly performs any act subject to this article with reference to a yacht owned by that person or, in the case of a corporation which, through its regular officers receiving no special compensation therefor, performs any act subject to this article with reference to the corporation's yacht.

(b) Services rendered by an attorney at law in performing duties as an attorney at law.

(c) Any receiver, trustee in bankruptcy, or other person acting under the order of any court.

(d) Any transaction involving the sale of property subject to foreclosure of a security interest in a yacht which is conducted only by the holder of the security interest or by a person licensed pursuant to Chapter 11 (commencing with Section 7500) of Division 3 of the Business and Professions Code when liquidating repossessed collateral pursuant to the written request of the holder of the security interest.

(e) Any transaction involving the sale, lease, or rental of a yacht in excess of 300 gross tons or tenders thereof sold at the same time.

(f) Any transaction involving the sale, lease, or rental of a new yacht or ship.

(g) Any transaction in the regular course of business by a wholesale motor vehicle auction subject to regulation by the Department of Motor Vehicles.

(Amended Sec. 2, Ch. 526, Stats. 1995. Effective January 1, 1996.)

Storage of Vessels

754. (a) Every keeper of a storage facility shall keep a written record of every vessel subject to registration with the Department of Motor Vehicles which is stored therein for compensation for a period longer than 12 hours.

(b) The record shall contain the name and address of the person storing the same and a brief description of the vessel including its builder and builder's hull number.

(c) All records shall be open to inspection by any peace officer.

HEALTH AND SAFETY CODE

7152.7. (a) The California organ procurement organizations designated pursuant to Section 273 and following, of Title 42 of the United States Code, are hereby authorized to establish a not-for-profit entity that shall be designated the California Organ and Tissue Donor Registrar, which shall establish and maintain the California Organ and Tissue Donor Registry. The registry shall contain information regarding persons who have identified themselves as organ and tissue donors upon their death. The registrar shall be responsible for developing methods to increase the number of donors who enroll in the registry.

(b) The

shall make available to the federally designated organ procurement organizations (OPOs) in California and the state licensed tissue and eye banks information contained in the registry regarding potential donors on a 24-hour-a-day, seven-days-a-week basis. This information shall be used to expedite a match between identified organ and tissue donors and potential recipients.

(c) The registrar may receive voluntary contributions to support the registry and its activities.

(d) The registrar shall submit an annual written report to the Director of Health Services and the Legislature that includes all of the following:

(1) The number of donors on the registry.

(2) The changes in the number of donors on the registry.

(3) The general characteristics of donors as may be determined by information provided on the donor registry forms pursuant to Sections 12811 and 13005 of the Vehicle Code.

(Amended Sec. 4, Ch. 405, Stats. 2003. Effective January 1, 2004.)

Services for Drinking Drivers

11837. (a) Pursuant to the provisions of law relating to suspension of a person's privilege to operate a motor vehicle upon conviction for driving while under the influence of any alcoholic beverage or drug, or under the combined influence of any alcoholic beverage and any drug, as set forth in paragraph (3) of subdivision (a) of Section 13352 of the Vehicle Code, the Department of Motor Vehicles shall restrict the driving privilege pursuant to Section 13352.5 of the Vehicle Code, if the person convicted of that offense participates for at least 18 months in a driving-under-the-influence program that is licensed pursuant to this chapter.

(b) In determining whether to refer a person, who is ordered to participate in a program pursuant to Section 668 of the Harbors and Navigation Code, in a licensed alcohol and other drug education and counseling services program pursuant to Section 23538 of the Vehicle Code, or, pursuant to Section 23542, 23548, 23552, 23556, 23562, or 23568 of the Vehicle Code, in a licensed 18-month or 30-month program, the court may consider any relevant information about the person made available pursuant to a presentence investigation, that is permitted but not required under Section 23655 of the Vehicle Code, or other screening procedure. That information shall not be furnished, however, by any person who also provides services in a privately operated, licensed program or who has any direct interest in a privately operated, licensed program. In addition, the court shall obtain from the Department of Motor Vehicles a copy of the person's driving record to determine whether the person is eligible to participate in a licensed 18-month or 30-month program pursuant to this chapter. When preparing a presentence report for the court, the probation department may consider the suitability of placing the defendant in a treatment program that includes the administration of nonscheduled nonaddicting medications to ameliorate an alcohol or controlled substance problem. If the probation department recommends that this type of program is a suitable option for the defendant, the defendant who would like the court to consider this option shall obtain from his or her physician a prescription for the medication, and a finding that the treatment is medically suitable for the defendant, prior to consideration of this alternative by the court.

(c) (1) The court shall, as a condition of probation pursuant to Section 23538 or 23556 of the Vehicle Code, refer a first offender whose concentration of alcohol in his or her blood was less than 0.20 percent, by weight, to participate for at least three months or longer, as ordered by the court, in a licensed program that consists of at least 30 hours of program activities, including those education, group counseling, and individual interview sessions described in this chapter.

(2) Notwithstanding any other provision of law, in granting probation to a first offender described in this subdivision whose concentration of alcohol in the person's blood was 0.20 percent or more, by weight, or the person refused to take a chemical test, the court shall order the person to participate, for at least ***nine*** months or longer, as ordered by the court, in a licensed program that consists of at least ***60*** hours of program activities, including those education, group counseling, and individual interview sessions described in this chapter.

(d) (1) The State Department of Alcohol and Drug Programs shall specify in regulations the activities required to be provided in the treatment of participants receiving ***nine*** months of licensed program services under Section 23538 or 23556 of the Vehicle Code.

(2) Any program licensed pursuant to this chapter may provide treatment services to participants receiving at least six months of licensed program services under Section 23538 or 23556 of the Vehicle Code.

(e) The court may, subject to Section 11837.2, and as a condition of probation, refer a person to a licensed program, even though the person's privilege to operate a motor vehicle is restricted, suspended, or revoked. An 18-month program described in Section 23542 or 23562 of the Vehicle Code or a 30-month program described in Section 23548, 23552, or 23568 of the Vehicle Code may include treatment of family members and significant other persons related to the convicted person with the consent of those family members and others as described in this chapter, if there is no increase in the costs of the program to the convicted person.

(f) The clerk of the court shall indicate the duration of the program in which the judge has ordered the person to participate in the abstract of the record of the court that is forwarded to the department.

(g) This section shall become operative on September 20, 2005.

(Amended Sec. 2, Ch. 164, Stats. 2005. Effective January 1, 2006.)

11837.1. (a) In utilizing any program described in Section 11837, the court may require periodic reports concerning the performance of each person referred to and participating in a program. The program shall provide the court, the Department of Motor Vehicles, and the person participating in a program with an immediate report of any failure of the person to comply with the program's rules and policies.

(b) If, at any time after entry into or while participating in a program, a participant who is referred to an 18-month program described in Section 23542 of the Vehicle Code or a 30-month program described in Section 23548, 23552, or 23568 of the Vehicle Code, fails to comply with the rules and policies of the program, and that fact is reported, the Department of Motor Vehicles shall suspend the privilege of that person to operate a motor vehicle for the period prescribed by law in accordance with Section 13352.5 of the Vehicle Code, except as otherwise provided in this section. The Department of Motor Vehicles shall notify the person of its action.

(c) If the department withdraws the license of a program, the department shall immediately notify the Department of Motor Vehicles of those persons who do not commence participation in a licensed program within 21 days from the date of the withdrawal of the license of the program in which the persons were previously participating. The Department of Motor Vehicles shall suspend or revoke, for the period prescribed by law, the privilege to operate a motor vehicle of each of those persons referred to an 18-month program pursuant to Section 23542 or 23562 of the Vehicle Code or to a 30-month program pursuant to Section 23548, 23552, or 23568 of the Vehicle Code.

(Amended Sec. 2, Ch. 22, Stats. 1999. Effective May 26, 1999. Operative July 1, 1999.)

11837.2. (a) (1) The court may refer persons only to licensed programs. Subject to these provisions, a person is eligible to participate in the program if the program is operating in any of the following:

(A) The county where the person is convicted.

(B) The county where the person resides.

(C) A county that has an agreement with the person's county of residence pursuant to Section 11838.

(D) A county to which a person may request transfer pursuant to subdivision (d).

(2) If a person granted probation under Section 23542 or 23562 of the Vehicle Code cannot be referred to a licensed 18-month program pursuant to this section, Section 13352.5 of the Vehicle Code does not apply.

(b) If a person has consented to participate in a licensed program and the county where the person is convicted is the same county in which the person resides, the court may order the person to participate in a licensed program within that county, or, if that county does not have a licensed program, the court may order that person to participate in a licensed program within another county, pursuant to Section 11838.

(c) If a person has consented to participate in a licensed program in the county in which that person resides or in a county in which the person's county of residence has an agreement pursuant to Section 11838, and the county where the person is convicted is not the county where the person resides, and if the court grants the person summary probation, the court may order the person to participate in a licensed program in that county. In lieu of summary probation, the court may utilize the probation officer to implement the orders of the court. If the county in which the person resides does not have a licensed program or an agreement with another county pursuant to Section 11838 and the person consents, the court may order the person to participate in a licensed program within the county where that person is convicted or in a county with which the county has an agreement pursuant to Section 11838.

(d) Except as otherwise provided in subdivision (e), subsequent to a person's commencement of participation in a program, the person may request transfer to another licensed program (1) in the same county in which the person has commenced participation in the program, upon approval of that county's alcohol and drug program administrator, or (2) in a county other than the county in which the person has commenced participation in the program, upon approval of the alcohol and drug program administrator of the county in which the person is participating and the county to which the person is requesting transfer.

(e) Subdivision (d) does not apply (1) if the court has ordered the person to participate in a specific licensed program, unless the court orders the transfer or, (2) if the person is under formal probation, unless the probation officer consents to the transfer. The department shall establish reporting forms and procedures to ensure that the court receives notice of any program transfer pursuant to this subdivision or subdivision (d).

(f) Jurisdiction of all postconviction matters arising pursuant to this section may be retained by the court of conviction.

(g) The department, in cooperation with the Department of Motor Vehicles and the county alcohol and drug program administrators, shall establish procedures to ensure the effective implementation of this section.

(Amended Sec. 106, Ch. 862, Stats. 2004. Effective January 1, 2005.)

18009.3. (a) "Park trailer" means a trailer designed for human habitation for recreational or seasonal use only, that meets all of the following requirements:

(1) It contains 400 square feet or less of gross floor area, excluding loft area space if that loft area space meets the requirements of subdivision (b) and Section 18033. It may not exceed 14 feet in width at the maximum horizontal projection.

(2) It is built upon a single chassis.

(3) It may only be transported upon the public highways with a permit issued pursuant to Section 35780 of the Vehicle Code.

(b) For purposes of this section and Section 18033, "loft area" means any area within a unit that is elevated 30 inches or more above the main floor area and designed to be occupied. In order for the floor of a loft area to be occupied and excluded from the calculation of gross floor area for purposes of subdivision (a), the loft area shall meet all of the requirements of Section 18033. Loft areas not meeting the requirements of this subdivision and Section 18033 shall not be occupied and shall be posted with a permanent label conspicuously located within 24 inches of the opening of each noncomplying loft. The label language and design shall provide the following:

WARNING

This area is not designed to be occupied and shall be used only for storage.

Lettering on this label shall contrast with the label's background and shall be not less than one-quarter inch in height, except for the word "WARNING" which shall be not less than one-half inch in height.

(c) A park trailer hitch, when designed by the manufacturer to be removable, may be removed and stored beneath a park trailer.

(d) If any provision of this section or Section 18033 conflicts with ANSI Standard A119.5 Recreational Park Trailers as it is published at any time, the statutory provision shall prevail.

Recreational Vehicle, Manufactured Home, Mobilehome, Commercial Coach, Truck Camper, or Floating Home

18010. "Recreational vehicle" means both of the following:

(a) A motor home, travel trailer, truck camper, or camping trailer, with or without motive power, designed for human habitation for recreational, emergency, or other occupancy, that meets all of the following criteria:

(1) It contains less than 320 square feet of internal living room area, excluding built-in equipment, including, but not limited to, wardrobe, closets, cabinets, kitchen units or fixtures, and bath or toilet rooms.

(2) It contains 400 square feet or less of gross area measured at maximum horizontal projections.

(3) It is built on a single chassis.

(4) It is either self-propelled, truck-mounted, or permanently towable on the highways without a permit.

(b) A park trailer, as defined in Section 18009.3.

(Amended Sec. 2, Ch. 566, Stats. 2000. Effective January 1, 2001.)

25160.7. An authorized representative of the generator or facility operator that is responsible for loading hazardous waste into a transport vehicle shall, prior to that loading, ensure that the driver of the transport vehicle is in possession of the appropriate class of driver's license and any endorsement required to lawfully operate the transport vehicle with its intended load.

(Added Sec. 1, Ch. 610, Stats. 2002. Effective January 1, 2003.)

Transportation of Hazardous Waste

25163. (a) (1) Except as otherwise provided in subdivisions (b), (c), (e), and (f), it is unlawful for any person to carry on, or engage in, the transportation of hazardous wastes unless the person holds a valid registration issued by the department, and it is unlawful for any person to transfer custody of a hazardous waste to a transporter who does not hold a valid registration issued by the department. A person who holds a valid registration issued by the department pursuant to this section is a registered hazardous waste transporter for purposes of this chapter. Any registration issued by the department to a transporter of hazardous waste is not transferable from the person to whom it was issued to any other person.

(2) Any person who transports hazardous waste in a vehicle shall have a valid registration issued by the department in his or her possession while transporting the hazardous waste. The registration certificate shall be shown upon demand to any representative of the department, officer of the Department of the California Highway Patrol, any local health officer, or any public officer designated by the department. Any person registered pursuant to this section may obtain additional copies of the registration certificate from the department upon the payment of a fee of two dollars ($2) for each copy requested, in accordance with Section 12196 of the Government Code.

(3) The hazardous waste information required and collected for registration pursuant to this subdivision shall be recorded and maintained in the management information system operated by the Department of the California Highway Patrol.

(b) Persons transporting only septic tank, cesspool, seepage pit, or chemical toilet waste that does not contain a hazardous waste originating from other than the body of a human or animal and who hold an unrevoked registration issued by the health officer or the health officer's authorized representative pursuant to Article 1 (commencing with Section 117400) of Chapter 4 of Part 13 of Division 104 are exempt from the requirements of subdivision (a).

(c) Except as provided in subdivision (f), persons transporting hazardous wastes to a permitted hazardous waste facility for transfer, treatment, recycling, or disposal, which wastes do not exceed a total volume of five gallons or do not exceed a total weight of 50 pounds, are exempt from the requirements of subdivision (a) and from the requirements of Section 25160 concerning possession of the manifest while transporting hazardous waste, upon meeting all of the following conditions:

(1) The hazardous wastes are transported in closed containers and packed in a manner that prevents the containers from tipping, spilling, or breaking during the transporting.

(2) Different hazardous waste materials are not mixed within a container during the transporting.

(3) If the hazardous waste is extremely hazardous waste or acutely hazardous waste, the extremely hazardous waste or acutely hazardous waste was not generated in the course of any business, and is not more than 2.2 pounds.

(4) The person transporting the hazardous waste is the producer of that hazardous waste, and the person produces not more than 100 kilograms of hazardous waste in any month.

(5) The person transporting the hazardous waste does not accumulate more than a total of 1,000 kilograms of hazardous waste onsite at any one time.

(d) Any person registered as a hazardous waste transporter pursuant to subdivision (a) is not subject to the registration requirements of Chapter 6 (commencing with Section 25000), but shall comply with those terms, conditions, orders, and directions that the health officer or the health officer's authorized representative may determine to be necessary for the protection of human health and comfort, and shall otherwise comply with the requirements for statements as provided in Section 25007. Violations of those requirements of Section 25007 shall be punished as provided in Section 25010. Proof of registration pursuant to subdivision (a) shall be submitted by mail or in person to the local health officer in the city or county in which the registered hazardous waste transporter will be conducting the activities described in Section 25001.

(e) Any person authorized to collect solid waste, as defined in Section 40191 of the Public Resources Code, who unknowingly transports hazardous waste to a solid waste facility, as defined in Section 40194 of the Public Resources Code, incidental to the collection of solid waste is not subject to subdivision (a).

(f) Any person transporting household hazardous waste or a conditionally exempt small quantity generator transporting hazardous waste to an authorized household hazardous waste collection facility pursuant to Section 25218.5 is exempt from subdivision (a) and from paragraph (1) of subdivision (d) of Section 25160 requiring possession of the manifest while transporting hazardous waste.

(Amended Sec. 9.5, Ch. 343, Stats. 2000. Effective January 1, 2001.)

25167.4. For purposes of this article, the following terms have the following meaning:

(a) "Vehicle" means a truck, trailer, semitrailer, or cargo tank. "Vehicle" does not include a truck tractor unless it is capable of containing a portion of the cargo.

(b) "Container" means a portable tank, intermediate bulk container, or rolloff bin.

(Amended Sec. 2, Ch. 945, Stats. 1997. Effective January 1, 1998.)

25169.1. Notwithstanding Section 25186.2, the department shall deny, suspend, or revoke the registration of any hazardous waste transporter pursuant to Section 25186.1 if necessary to prevent or mitigate an imminent and substantial danger to human health and safety or to the environment.

(Amended Sec. 15, Ch. 539, Stats. 1996. Effective January 1, 1997.)

25169.7. Except as specified otherwise in subdivision (b), on and after July 1, 2003, all of the following requirements, including any regulations adopted by the department pursuant to Section 25169.8, shall apply to any person handling any hazardous waste of concern:

(a) (1) If a hazardous waste transporter or the owner or operator of a hazardous waste facility discovers that a hazardous waste of concern is missing during transportation or storage, and the amount of waste missing equals or exceeds the reportable quantity specified in the regulations adopted pursuant to Section 25169.6, the hazardous waste transporter or the owner or operator shall immediately, as specified in the regulations adopted by the department, provide a verbal notification to the department and report the discrepancy to the department in writing by letter within five days after the discovery. The transporter or the owner or operator shall also comply with the applicable manifest discrepancy reporting requirements specified in the regulations adopted by the department pursuant to this chapter.

(2) Within 24 hours after receiving a notification of a missing hazardous waste of concern pursuant to paragraph (1), the department shall make a preliminary determination whether there is a potential risk to public safety. If, after making that preliminary determination, or at any time thereafter, the department determines the missing hazardous waste of concern presents a significant potential risk to public safety from its use in a terrorist or other criminal act, the department shall notify the Office of Emergency Services and the Department of the California Highway Patrol.

(3) The Department of the California Highway Patrol may enter and inspect any hazardous waste facility at the department's request to perform an investigation of any hazardous waste that the department determines may be missing.

(b) (1) Notwithstanding Section 25200.4, any person applying for a hazardous waste facilities permit or other grant of authorization to use and operate a hazardous waste facility that would handle hazardous waste of concern shall submit to the department a disclosure statement containing the information specified in Section 25112.5.

(2) On or before January 1, 2004, and at any time upon the request of the department, any person owning or operating a hazardous waste facility that handles any hazardous waste of concern shall submit to the department a disclosure statement containing the information specified in Section 25112.5.

(3) (A) Except as provided in subparagraph (B), on and after January 1, 2004, any person applying for registration as a hazardous waste transporter who will transport hazardous waste of concern shall submit to the department a disclosure statement containing the information specified in Section 25112.5.

(B) Subparagraph (A) does not apply to a transporter who has submitted a disclosure statement to the department within the two-year period immediately preceding the application for registration, unless there has been a change in the information required to be contained in the disclosure statement or the department requests the transporter to submit a disclosure statement.

(4) At any time upon the request of the department, any registered hazardous waste transporter who transports any hazardous waste of concern shall submit to the department a disclosure statement containing the information specified in Section 25112.5.

(5) Whenever any change pertaining to the information required to be contained in a disclosure statement filed pursuant to paragraphs (1) to (4), inclusive, occurs after the date of the filing of the disclosure statement, the transporter or the facility owner or operator shall provide the updated information in writing to the department within 30 days of the change.

(6) On or before 180 days after receiving a disclosure statement pursuant to this subdivision, the department shall conduct a background check, as defined in subdivision (a) of Section 25169.5.

(7) This subdivision does not apply to any federal, state, or local agency or any person operating pursuant to a permit-by-rule, conditional authorization, or conditional exemption.

(Added Sec. 2, Ch. 607, Stats. 2002. Effective January 1, 2003.)

39016.5. "Bureau" means the Bureau of Automotive Repair in the Department of Consumer Affairs.

(Repealed Sec. 1 and added Sec. 2, Ch. 890, Stats. 2000. Effective January 1, 2001.)

Direct Import Vehicle

39024.6. "Direct import vehicle" means any light-duty motor vehicle manufactured outside of the United States which was not intended by the manufacturer for sale in the United States and which was not certified by the state board pursuant to Article 1 (commencing with Section 43100) of Chapter 2 of Part 5.

(Added Ch. 859, Stats. 1989. Effective January 1, 1990.)

39032.5. "Gross polluter" means a vehicle with excess hydrocarbon, carbon monoxide, or oxides of nitrogen emissions as established by the department in consultation with the state board.

(Amended Ch. 27, Stats. 1994. Effective March 30, 1994.)

41081. (a) Subject to Article 3.7 (commencing with Section 53720) of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code, or with the approval of the board of supervisors of each county included, in whole or in part, within the Sacramento district, the Sacramento district board may adopt a surcharge on the motor vehicle registration fees applicable to all motor vehicles registered in those counties within the Sacramento district whose boards of supervisors have adopted a resolution approving the surcharge. The surcharge shall be collected by the Department of Motor Vehicles and, after deducting the department's administrative costs, the remaining funds shall be transferred to the Sacramento district. Prior to the adoption of any surcharge pursuant to this subdivision, the district board shall make a finding that any funds allocated to the district as a result of the adoption of a county transportation sales and use tax are insufficient to carry out the purposes of this chapter.

(b) The surcharge shall not exceed two dollars ($2) for each motor vehicle whose registration expires on or after December 31, 1989, and prior to December 31, 1990. For each motor vehicle whose registration expires on or after December 31 1990, the surcharge shall not exceed four dollars ($4).

(c) After consulting with the Department of Motor Vehicles on the feasibility thereof, the Sacramento district board may provide, in the surcharge adopted pursuant to subdivision (a), to exempt from all or part of the surcharge any category of low-emission motor vehicle.

(d) Funds received by the Sacramento district pursuant to this section shall be used to implement the strategy with respect to the reduction in emissions from vehicular sources, including, but not limited to, a clean fuels program and motor vehicle use reduction measures. Not more than 5 percent of the funds collected pursuant to this section shall be used by the district for administrative expenses.

Vehicular Air Pollution Control

43000. The Legislature finds and declares as follows:

(a) The emission of air pollutants from motor vehicles is the primary cause of air pollution in many parts of the state.

(b) The control and elimination of those air pollutants is of prime importance for the protection and preservation of the public health and well-being, and for the prevention of irritation to the senses, interference with visibility, and damage to vegetation and property.

(c) The state has a responsibility to establish uniform procedures for compliance with standards which control or eliminate those air pollutants.

(d) Vehicle emission standards applied to new motor vehicles, and to used motor vehicles equipped with motor vehicle pollution control devices, are standards with which all motor vehicles shall comply.

(e) Dependence on petroleum based fuels in motor vehicles not only contributes to substantial degradation of air quality and risk to public health, but also impedes the state's progress toward the petroleum use reduction goal prescribed in Section 25000.5 of the Public Resources Code.

(Amended Ch. 900, Stats. 1991. Effective January 1, 1992.)

43001. The provisions of this part shall not apply to:

(a) Racing vehicles.

(b) Motorcycles, except as otherwise provided in Section 43107.

This section shall become operative on January 1, 1989.

(Amended Ch. 233, Stats. 1984. Effective January 1, 1985.)

43002. No motor vehicle of historic interest shall be required to have any motor vehicle pollution control device, except for such devices that were required by this part for such vehicles prior to the time that special identification plates were issued for that vehicle pursuant to Section 5004 of the Vehicle Code.

43002.2. The state board shall waive the provisions of this division on a case-by-case basis for the purpose of allowing the importation of vehicles designed only for use for disabled persons.

(Added Ch. 244, Stats. 1984. Effective June 26, 1984.)

43004. Except as otherwise provided in Section 43001, 43002, or 43005, the standards applicable under this part for exhaust emissions for gasoline-powered motor vehicles shall apply to motor vehicles which have been modified or altered to use a fuel other than gasoline or diesel.

43005. Section 43004 of this code, and Sections 4000.1 and 27156 of the Vehicle Code, shall not apply to a motor vehicle altered or modified to use a fuel other than gasoline or diesel completed prior to August 31, 1969.

43007. Whenever any motor vehicle is required to be equipped with any motor vehicle pollution control device by rules and regulations adopted by any district pursuant to Section 43658, such motor vehicle shall be equipped with such device.

43008. Except as provided by Sections 43100 and 43101 and Chapter 3 (commencing with Section 43600), all motor vehicles required pursuant to the National Emission Standards Act (42 U.S.C., Secs. 1857f-1 to 1857f-7, inclusive) and the standards and regulations promulgated thereunder, to be equipped with motor vehicle pollution control devices, shall be equipped with such devices required by that act.

43009. Except as otherwise provided in Section 43002, every motor vehicle subject to this part shall meet the standards adopted by the state board pursuant to Sections 27157 and 27157.5 of the Vehicle Code.

43009.5. (a) If, based on a review of information derived from a statistically valid and representative sample of vehicles, the state board determines that a substantial percentage of any class or category of vehicles certified under the optional standards of Section 43101.5, and of Section 1960.15 of Title 13 of the California Administrative Code, exhibits, prior to 75,000 miles or seven years, whichever occurs first, an identifiable, systematic defect in a component listed in paragraph (2) of subdivision (c) of Section 1960.15, which causes a significant increase in emissions above those exhibited by vehicles free of defects and of the same class or category and having the same period of use and mileage, the state board may invoke its enforcement authority under Section 43105 to require remedial action by the vehicle manufacturer. The remedial action shall be limited to owner notification and repair or replacement of the defective component. As used in this section, the term "defect" shall not include failures which are the result of abuse, neglect, or improper maintenance.

(b) Nothing in this section shall limit or otherwise affect the recall authority of the state board, except as provided in subdivision (a).

(Added Ch. 1173, Stats. 1982. Effective January 1, 1983.)

43010. With respect to the program designed and adopted by the Department of Consumer Affairs pursuant to Chapter 20.4 (commencing with Section 9889.50) of Division 3 of the Business and Professions Code, the state board shall, in time for the Department of Consumer Affairs to comply with the schedule specified in subdivisions (a) and (b) of Section 9889.55 of that code, after public hearings, prescribe maximum air pollution emission standards to be applied in inspecting motor vehicles.

In prescribing such standards, the state board shall undertake such studies and experiments as are necessary and feasible, evaluate available data, and confer with automotive engineers.

The standards shall be set at a level reasonably achievable for each class and model of motor vehicle when operating in a reasonably sound mechanical condition, allowing for the effects of installed motor vehicle pollution control devices, and the motor vehicle's age and total mileage. The standards shall be designed to secure the operation of all such motor vehicles, as soon as possible, with a substantial reduction in air pollution emissions, and shall be revised from time to time, as experience justifies.

43012. (a) For the purpose of enforcing or administering any federal, state, or local law, order, regulation, or rule relating to vehicular sources of emissions, the executive officer of the state board or an authorized representative of the executive officer, or a representative of the department, upon presentation of credentials or, if necessary under the circumstances, after obtaining an inspection warrant pursuant to Title 13 (commencing with Section 1822.50) of Part 3 of the Code of Civil Procedure, has the right of entry to any premises owned, operated, used, leased, or rented by any new or used car dealer, as defined in Sections 285, 286, and 426 of the Vehicle Code, for the purpose of inspecting any vehicle for which emissions standards have been enacted or adopted or for which emissions equipment is required and which is situated on the premises for the purpose of emission-related maintenance, repair, or service, or for the purpose of sale, lease, or rental, whether or not the vehicle is owned by the dealer. The inspection may extend to all emission-related parts and operations of the vehicle, and may require the on-premises operation of an engine or vehicle, the on-premises securing of samples of emissions from the vehicle, and the inspection of any records which relate to vehicular emissions required by the Environmental Protection Agency or by any state or local law, order, regulation, or rule to be maintained by the dealer in connection with the dealer's business.

(b) The right of entry for inspection under this section is limited to the hours during which the dealer is open to the public, except when the entry is made pursuant to warrant or whenever the executive officer or an authorized representative, or a representative of the department, has reasonable cause to believe that a violation of any federal, state, or local law, order, regulation, or rule has been committed in his or her presence. No vehicle shall be inspected pursuant to this section more than one time without an inspection warrant or without reasonable cause unless the vehicle undergoes a change of ownership or the inspection reveals that the vehicle has failed to comply with required emissions standards or equipment, in which case one additional inspection may be made to verify the violation or to verify that the violation has been corrected.

(c) With respect to vehicles not owned by the dealer, the state board or the department may not prosecute, without the owner's knowledge or consent, any violation by the owner of any law pertaining to vehicular emissions unless prior notice of the inspection has been given to the owner.

(d) If the executive officer or authorized representative, or a representative of the department, upon inspection, finds that a used motor vehicle fails to comply with applicable emissions standards or equipment, the state board or the department shall issue a notice to correct and enter the appropriate vehicle information into the centralized computer data base created pursuant to Section 44037.1. Until all violations in the notice have been corrected and the dealer has sent proof of correction by certified mail to the state board or the department, whichever issued the notice, the motor vehicle shall prominently display the following disclosure affixed to the windshield in at least 18-point type:

NOT FOR SALE

THIS VEHICLE IS PRESENTLY NOT IN COMPLIANCE WITH THE CALIFORNIA VEHICLE POLLUTION CONTROL LAWS AND MAY NOT BE SOLD UNTIL A VALID CERTIFICATE OF COMPLIANCE HAS BEEN ISSUED.

Any dealer who sells a vehicle prohibited to be sold under this subdivision is subject to a civil penalty of not to exceed one thousand dollars ($1,000). For purposes of this subdivision, "proof of correction" shall consist of a copy of a certificate of compliance or noncompliance issued following the issuance of a notice to correct by a licensed test station or licensed repair station not affiliated with or owned by the dealer or any other proof of repair satisfactory to the inspecting officer. The dealer shall send the copy of the certificate of compliance or noncompliance by certified mail to the state board or the department, whichever issued the notice, within three days of obtaining the certificate.

(e) Civil penalties may be assessed or recovered for one or more violations by a dealer involving the tampering with or disabling of a vehicle's air injection, exhaust gas recirculation, crankcase ventilation, fuel injection or carburetion systems, ignition timing or evaporative controls, fuel filler neck restrictor, oxygen sensor or electronic controls, or missing catalytic converter.

(f) No civil penalty or criminal penalty may be assessed for a violation by a dealer identified in a notice to correct as a result of an inspection under this section if the violation is related to lack of maintenance or customer tampering or vandalism, including, but not limited to, a missing gasoline filler cap and a disconnected or missing heated air intake tube or vacuum hose. However, if notices to correct are issued under this subdivision to more than 20 percent of the vehicles offered for sale on a dealer's premises during each of three consecutive inspections conducted 30 or more days apart during any one-year period, civil penalties may be assessed and recovered for each vehicle issued a notice to correct.

(g) If the executive officer or authorized representative, upon inspection, finds that a certificate of compliance or noncompliance was issued to a motor vehicle that fails to comply with applicable emissions standards or equipment, the state board shall immediately refer these findings to the department for investigation under Chapter 5 (commencing with Section 44000). The state board may refer any other suspected violation to the department for appropriate action.

(h) Notwithstanding Section 17150 of the Vehicle Code, the state shall be liable for any injury or damage caused by the negligent or wrongful act or omission of the operator of any vehicle which is operated pursuant to this section.

(i) This section provides the exclusive authority for inspections of motor vehicles for the purposes specified in this section.

(j) As used in this section, the terms "tampering" and "disabling" mean an unauthorized modification, alteration, removal, or disconnection.

(Amended Ch. 1220, Stats. 1994. Effective September 30, 1994.)

New Motor Vehicles

43100. The state board may certify new motor vehicles and new motor vehicle engines pursuant to this article.

(Amended Ch. 1206, Stats. 1976. Effective January 1, 1977.)

43101. (a) The state board shall adopt and implement emission standards for new motor vehicles for the control of emissions from new motor vehicles that the state board finds to be necessary and technologically feasible to carry out the purposes of this division. Before adopting these standards, the state board shall consider the impact of these standards on the economy of the state, including, but not limited to, their effect on motor vehicle fuel efficiency.

(b) The standards adopted pursuant to this section may be applicable to motor vehicle engines, rather than to motor vehicles.

(Amended Sec. 20, Ch. 644, Stats. 2004. Effective January 1, 2005.)

43101.5. The emission standards adopted by the state board pursuant to Section 43101 for the 1983 and later model-year motor vehicles shall be limited by the following:

(a) For all gasoline-powered passenger vehicles prior to the 1986 model year, the state board shall not adopt primary standards for the emission of oxides of nitrogen which are more stringent than 0.7 grams per vehicle mile, unless the state board by regulation also provides for optional standards which are not more stringent, with respect to each constituent, than 0.39 grams per vehicle mile for nonmethane hydrocarbon, 7.0 grams per vehicle mile for carbon monoxide, and 0.7 grams per vehicle mile for oxides of nitrogen. For gasoline-powered light-duty vehicles and medium-duty vehicles prior to the 1986 model year of less than 4,000 pounds unladen weight, the state board shall not adopt primary standards for the emission of oxides of nitrogen which are more stringent than 1.0 gram per vehicle mile, unless the state board by regulation also provides for optional standards which are not more stringent, with respect to each constituent, than 0.39 grams per vehicle mile for nonmethane hydrocarbon, 9.0 grams per vehicle mile for carbon monoxide, and 1.0 gram per vehicle mile for oxides of nitrogen. Any option may not impose certification, warranty, or enforcement requirements of greater duration or stringency than those set forth in the regulations applicable to 1983 and later model years, as adopted or amended by the state board on May 20, 1981.

(b) If the state board intends by regulation to eliminate for 1986 and later model-year vehicles the optional standards specified in subdivision (a), the state board shall submit to the Legislature, not later than January 15th of the year which is at least two calendar years prior to the year in which production would commence of vehicles subject to the new standard, a report with an estimate of the air quality benefits of the more stringent standard, the technological and economic feasibility of requiring the standard, and the potential effects on fuel economy associated with the standard. The state board shall consult with the Environmental Protection Agency and motor vehicle and engine manufacturers prior to submitting the air quality and fuel economy estimates.

(Added Ch. 1185, Stats. 1981. Effective January 1, 1982.)

43102. (a) No new motor vehicle or new motor vehicle engine shall be certified by the state board, unless the vehicle or engine, as the case may be, meets the emission standards adopted by the state board pursuant to Section 43101 under test procedures adopted by the state board pursuant to Section 43104.

(b) Notwithstanding subdivision (a), to assure that California consumers have an adequate selection of light-duty motor vehicle models, the state board shall adopt certification and enforcement regulations for future model years as soon as practicable, but not later than for the 1983 and subsequent model years, which will allow a manufacturer to certify in California federally certified light-duty motor vehicles with any engine family or families when their emissions are offset by the manufacturer's California certified motor vehicles whose emissions are below the applicable California standards. This exemption shall not apply to emergency vehicles, as defined in Sectin 2002 of Title 15 of the United States Code.

(c) Subdivision (b) shall not be applicable to any vehicle or engine model which is certified to meet the emission standards established pursuant to Section 43101 or 43101.5

(Amended Ch. 1185, Stats. 1981. Effective January 1, 1982.)

43104. For the certification of new motor vehicles or new motor vehicle engines, the state board shall adopt, by regulation, test procedures and any other procedures necessary to determine whether the vehicles or engines are in compliance with the emissions standards established pursuant to Section 43101. The state board shall base its test procedures on federal test procedures or on driving patterns typical in the urban areas of California.

(Amended Sec. 3, Ch. 1077, Stats. 2000. Effective January 1, 2001.)

43105. No new motor vehicle, new motor vehicle engine, or motor vehicle with a new motor vehicle engine required pursuant to this part to meet the emission standards established pursuant to Section

43101 shall be sold to the ultimate purchaser, offered or delivered for sale to the ultimate purchaser, or registered in this state if the manufacturer has violated emission standards or test procedures and has failed to take corrective action, which may include recall of vehicles or engines, specified by the state board in accordance with regulations of the state board. If a manufacturer contests the necessity for, or the scope of, a recall of vehicles or engines ordered pursuant to this section and so advises the state board, the state board shall not require such recall unless it first affords the manufacturer the opportunity, at a public hearing, to present evidence in support of the manufacturer's objections. If a vehicle or engine is recalled pursuant to this section, the manufacturer shall make all necessary corrections specified by the state board without charge to the registered owner of the vehicle or vehicle with such engine or, at the manufacturer's election, reimburse the registered owner for the cost of making such necessary corrections.

The procedures for determining, and the facts constituting, compliance or failure of compliance shall be established by the state board.

(Amended Ch. 1206, Stats. 1976. Effective January 1, 1977.)

43106. Each new motor vehicle or engine required pursuant to this part to meet the emission standards established pursuant to Section 43101 shall be, in all material respects, substantially the same in construction as the test motor vehicle or engine, as the case may be, which has been certified by the state board in accordance with this article. However, changes with respect to new motor vehicles or engines previously certified may be made if such changes do not increase emissions above the standards under which those motor vehicles or engines, as the case may be, were certified and are made in accordance with procedures specified by the state board.

(Amended Ch. 1206, Stats. 1976. Effective January 1, 1977.)

43107. (a) The state board may, by regulation, adopt emission standards for new 1977 and later model year motorcycles registered or identified by the Department of Motor Vehicles which are sold in the state on or after July 1, 1976, or such later date as established by the state board by regulation.

(b) Motorcycles shall be exempt from the provisions of Section 43200.

43108. (a) In lieu of certification pursuant to Section 43102, the state board may certify a new motor vehicle designed for exclusive use as a schoolbus, or a new motor vehicle engine intended for use in a schoolbus, if the Administrator of the Environmental Protection Agency has granted a certificate of conformity for the schoolbus or engine pursuant to the Clean Air Act (42 U.S.C. Sec. 1857 et seq.).

(b) The state board shall grant a certification pursuant to subdivision (a) only if the manufacturer of the schoolbus or engine demonstrates that an engine suitable for use in the manufacturer's standard type of schoolbus which meets the applicable emissions standards established by the state board pursuant to Section 43102 is not available for installation.

(c) The state board, prior to granting a certification pursuant to subdivision (a), shall require a showing by the manufacturer of the schoolbus or engine of a good faith effort to procure or manufacture an engine which meets the standards established by the state board pursuant to Section 43102 and, in the case of the schoolbus manufacturer, a good faith effort to accomplish a schoolbus redesign to accommodate such an engine. In the absence of these showings, the state board shall not grant a certification pursuant to subdivision (a).

(Added Ch. 741, Stats. 1976. Effective January 1, 1977.)

Prohibited Transactions

43150. The Legislature finds and declares that the people of this state, in order to achieve the purposes of this part, have a special interest in assuring that only those new motor vehicles and new motor vehicle engines which meet this state's stringent emission standards and test procedures, and which have been certified pursuant to this chapter, are used or registered in this state. The Legislature also finds and declares that this special interest must be protected in a manner which will not unduly or unreasonably infringe upon the right of the people of this state and other states to travel and do business interstate.

43151. (a) No person who is a resident of, or who operates an established place of business within, this state shall import, deliver, purchase, rent, lease, acquire, or receive a new motor vehicle, new motor vehicle engine, or motor vehicle with a new motor vehicle engine for use, registration, or resale in this state unless such motor vehicle engine or motor vehicle has been certified pursuant to this chapter. No person shall attempt or assist in any such action.

(b) This article shall not apply to a vehicle acquired by a resident of this state for the purpose of replacing a vehicle registered to such resident which was damaged or became inoperative beyond reasonable repair or was stolen while out of this state; provided that such replacement vehicle is acquired out of state at the time the previously owned vehicle was either damaged or became inoperative or was stolen. This article shall not apply to a vehicle transferred by inheritance, or by a decree of divorce, dissolution, or legal separation entered by a court of competent jurisdiction, or to any vehicle sold after the effective date of the amendments to this subdivision at the 1979-80 Regular Session of the Legislature if the vehicle was registered in this state before such effective date.

(c) This chapter shall not apply to any motor vehicle having a certificate of conformity issued pursuant to the Clean Air Act (42 U.S.C. Sec. 7401 et seq.) and originally registered in another state by a resident of that state who subsequently establishes residence in this state and who, upon registration of the vehicle in this state, provides satisfactory evidence to the Department of Motor Vehicles of the previous residence and registration. This subdivision shall become operative 180 calendar days after the state board adopts regulations for the certification of new direct import vehicles pursuant to Section 43203.5.

(d) "Established place of business," as used in this section, means a place actually occupied either continuously or at regular periods.

(Amended Ch. 1235, Stats. 1985. Effective January 1, 1986.)

43152. No person who is engaged in this state in the business of selling to an ultimate purchaser, or renting or leasing new motor vehicles or new motor vehicle engines, including, but not limited to, manufacturers, distributors, and dealers, shall intentionally or negligently import, deliver, purchase, receive, or otherwise acquire a new motor vehicle, new motor vehicle engine, or vehicle with a new motor vehicle engine which is intended for use primarily in this state, for sale or resale to an ultimate purchaser who is a resident of or doing business in this state, or for registration, leasing or rental in this state, which has not been certified pursuant to this chapter. No person shall attempt or assist in any such act.

43153. No person who is engaged in this state in the business of selling to an ultimate purchaser or renting or leasing new motor vehicles or new motor vehicle engines, including, but not limited to, manufacturers, distributors, and dealers, shall intentionally or negligently sell, or offer to sell, to an ultimate purchaser who is a resident of or doing business in this state, or lease, offer to lease, rent, or offer to rent, in this state any new motor vehicle, new motor vehicle engine, or vehicle with a new motor vehicle engine, which is intended primarily for use or for registration in this state, and which has not been certified pursuant to this chapter. No person shall attempt or assist in any such action.

43154. (a) Any person who violates any provision of this article shall be liable for a civil penalty not to exceed five thousand dollars ($5,000) per vehicle.

(b) Any action to recover a penalty under this section shall be brought in the name of the people of the State of California in the superior court of the county where the violation occurred, or in the county where the defendant's residence or principal place of business is located, by the Attorney General on behalf of the state board, in which event all penalties adjudged by the court shall be deposited in the Air Pollution Control Fund, or by the district attorney or county attorney of such county, or by the city attorney of a city in that county, in which event all penalties adjudged by the court shall be deposited with the treasurer of the county or city, as the case may be.

43155. An action brought pursuant to Section 43154 to recover such civil penalties shall take special precedence over all other civil matters on the calendar of the court except those matters to which equal precedence on the calendar is granted by law.

43156. (a) For purposes of this article, it is conclusively presumed that the equitable or legal title to any motor vehicle with an odometer reading of 7,500 miles or more, has been transferred to an ultimate purchaser, except as provided in subdivision (b), and that the equitable or legal title to any motor vehicle with an odometer reading of less than 7,500 miles, has not been transferred to an ultimate purchaser.

(b) For purposes of this article, it is conclusively presumed that the equitable and legal title to any direct import vehicle which is less than two years old has not been transferred to an ultimate purchaser and that the equitable or legal title to any direct import motor vehicle which is at least two years old has been transferred to an ultimate purchaser.

For purposes of this subdivision, the age of a motor vehicle shall be determined by the following, in descending order of preference:

(1) From the first calendar day of the model year as indicated in the vehicle identification number.

(2) From the last calendar day of the month the vehicle was delivered by the manufacturer as shown on the foreign title document.

(3) From January 1 of the same calendar year as the model year shown on the foreign title document.

(4) From the last calendar day of the month the foreign title document was issued.

(Amended Ch. 859, Stats. 1989. Effective January 1, 1990.)

Manufacturers and Dealers

43200. ***(a)*** The state board may adopt a regulation to prohibit the sale and registration in this state of any new motor vehicle certified by the state board to which there has not been securely ***and conspicuously*** affixed on ***the driver's*** side window or, if it cannot be so placed, to the windshield of the motor vehicle in accordance with paragraph (3) of subdivision (b) of Section 26708 of the Vehicle Code, by the manufacturer a ***label*** on which the manufacturer shall endorse clearly, distinctly, and legibly true and correct entries disclosing the following information concerning ***the*** motor vehicle:

(1) The emission standards adopted by the state board pursuant to Section 43101 ***that*** are applicable to that motor vehicle.

(2) The information required by Section 43200.1 and related air pollution emissions information as specified by the state board.

(b) A regulation may be adopted ***pursuant to this section*** only if the state board finds that the regulation is necessary ***for either of the following:***

(1) To enforce or ***ensure*** compliance with applicable statutes, standards, or procedures relating to vehicle emissions.

(2) For the protection or information of consumers.

(c) Nothing in this division or in any other statute shall be construed as prohibiting a purchaser from removing the decal required by this section, after the purchaser has taken possession of the vehicle.

(Amended Sec. 2, Ch. 575, Stats. 2005. Effective January 1, 2006.)

43201. (a) Any dealer or person holding a retail seller's permit who sells a new motor vehicle without the decal required by Section 43200 or 43200.5 shall be subject to a civil penalty of not to exceed one thousand dollars ($1,000).

(b) Any penalty recovered pursuant to this section shall be deposited in the General Fund.

(c) This section shall become inoperative five years from the date determined pursuant to Section 32 of the act adding this subdivision, and on the January 1 following that date is repealed.

(Amended Ch. 1192, Stats. 1994. Effective January 1, 1995.)

NOTE: The preceding section shall remain in effect for five years from the date determined pursuant to Section 32 of Chapter 1192, Stats. of 1994, and on the following January 1 it is repealed.

43201. (a) Any dealer or person holding a retail seller's permit who sells a new motor vehicle without the decal required by Section 43200 shall be subject to a civil penalty of not to exceed one thousand dollars ($1,000).

(b) Any penalty recovered pursuant to this section shall be deposited into the General Fund.

(c) This section shall become operative five years from the date determined pursuant to Section 32 of the act adding this section.

(Added Ch. 1192, Stats. 1994. Effective January 1, 1995.)

NOTE: The preceding section shall become operative five years from the date determined pursuant to Section 32 of Chapter 1192, Stats. of 1994.

43202. No new motor vehicle required to meet the emission standards adopted by the state board pursuant to Section 43101 shall be sold and registered in this state unless the manufacturer thereof permits the state board to conduct surveillance testing of emissions of new motor vehicles at his assembly facilities, or at any other location where the manufacturer's assembly line testing is performed and assembly line testing records are kept.

Authorization for the sale and registration of any new motor vehicle in this state may be rescinded or withheld if, at any time, the state board is prevented by the manufacturer from conducting surveillance of assembly line testing.

43203. (a) In connection with surveillance of emissions from new motor vehicles prior to their retail sale, the state board may, by regulation, impose fees on manufacturers of these vehicles to recover the state board's costs in conducting this surveillance.

(b) A manufacturer who fails to pay a fee imposed pursuant to this section within 60 days after receiving an invoice shall pay the state board an additional fee equal to 10 percent of the fee specified in subdivision (a). If the manufacturer notifies the state board, within 60 days after receiving the invoice, that additional information is needed to honor the invoice, the state board shall grant an additional 90 days for payment without the imposition of an additional fee. An additional interest fee equal to the rate of interest earned by the Pooled Money Investment Fund shall be imposed upon the fee specified in subdivision (a) and the additional fees specified in this subdivision and subdivision (c) for each 30-day period for which they remain unpaid, commencing 60 days after the receipt of the original invoice.

(c) A manufacturer who fails to pay all the fees imposed pursuant to this section within one year from the date of receipt of the original invoice shall pay a penalty fee equal to 100 percent of the fees imposed pursuant to subdivisions (a) and (b). A manufacturer who fails to pay all the fees and penalties imposed pursuant to this section within two years from the date of receipt of the original invoice shall pay a penalty equal to 100 percent of the fees and penalties imposed pursuant to subdivisions (a) and (b) and to this subdivision, for each one-year period for which they remain unpaid.

(d) Fees authorized by this section shall be imposed only for surveillance of emissions from new motor vehicles actually conducted.

(e) Notwithstanding Section 13340 of the Government Code, all fees collected pursuant to subdivision (a) are continuously appropriated to the state board, to be credited as a reimbursement of the board's costs incurred in its program for the surveillance of emissions from new vehicles. All fees collected pursuant to subdivisions (b) and (c) shall be deposited by the state board into the Air Pollution Control Fund.

(Amended Ch. 607, Stats. 1985. Effective January 1, 1986.)

43203.5. The state board shall adopt, by regulation, a certification program for new direct import vehicles, as defined by Sections 39024.6, and 39042, which are less than two years old. The state board shall issue a certificate of conformance to each new direct import vehicle which meets the requirements of the certification program. Any bonding requirements for the certification program may not exceed one thousand dollars ($1,000) per new direct import vehicle or engine.

The model year designation for new direct import vehicles in an engine family shall be determined on the same basis as vehicles in the same engine family which are offered for sale in California by the manufacturer. The model year designation for any new direct import motor vehicle in an engine family which the manufacturer does not offer for sale in California shall be determined in accordance with the regulations adopted by the state board. The designations shall apply for all purposes of the certification program and for registration of new direct import vehicles.

The state board shall, by regulation, impose fees to recover the state board's costs, including enforcement costs, of administration of the certification program. Failure to pay the fees within 60 days of receipt after notification by the state board shall result in the assessment of a 10 percent penalty. An additional interest assessment on the fees equivalent to the rate earned by the Pooled Money Investment Fund shall accrue at the end of each 30-day period that the fees remain unpaid. Nonpayment of the fees for more than one year shall result in the state board withholding future certification of new vehicles for sale in California.

Fees collected in accordance with this section shall be deposited in the Air Pollution Control Fund.

(Amended Ch. 859, Stats. 1989. Effective January 1, 1990.)

43204. (a) The manufacturer of each motor vehicle or motor vehicle engine manufactured prior to the 1990 model-year shall

warrant to the ultimate purchaser and each subsequent purchaser that the motor vehicle or motor vehicle engine is:

(1) Designed, built, and equipped so as to conform, at the time of sale, with the applicable emission standards specified in this part.

(2) Free from defects in materials and workmanship which cause such motor vehicle or motor vehicle engine to fail to conform with applicable regulations for its useful life, determined pursuant to subdivision (b).

(b) As used in subdivision (a), "useful life" of a motor vehicle or motor vehicle engine means:

(1) In the case of light-duty motor vehicles, and motor vehicle engines used in such motor vehicles, a period of use of five years or 50,000 miles, whichever first occurs, except that, in the case of fuel metering and ignition systems and their component parts which are contained in the state board's "Emissions Warranty Parts List" dated December 14, 1978 (items I(A), I(C), III(A), III(C), III(E), IX(A), and IX(B), and which are contained in vehicles or vehicle engines certified to the optional standards pursuant to Section 43101.5 and subject to subdivision (a) of Section 43009.5, "useful life" means a period of use of two years or 24,000 miles, whichever occurs first.

(2) In the case of any other motor vehicle or motor vehicle engine, a period of use of five years or 50,000 miles, whichever first occurs, unless the state board determines that a period of use of greater duration or mileage is appropriate.

(Amended Ch. 1544, Stats. 1988. Effective January 1, 1989.)

43205. (a) Commencing with the 1990 model-year, the manufacturer of each light-duty and medium-duty motor vehicle and motor vehicle engine shall warrant to the ultimate purchaser and each subsequent purchaser that the motor vehicle or motor vehicle engine meets all of the following requirements:

(1) Is designed, built, and equipped so as to conform with the applicable emissions standards specified in this part.

(2) Is free from defects in materials and workmanship which cause the motor vehicle or motor vehicle engine to fail to conform with applicable requirements specified in this part for three years or 50,000 miles, whichever first occurs.

(3) Will, for a period of three years or 50,000 miles, whichever first occurs, pass a test established under Section 44012, but that the warranty shall not apply if the manufacturer demonstrates that the failure of the motor vehicle or motor vehicle engine to pass the test was directly caused by the abuse, neglect, or improper maintenance or repair of the vehicle or engine.

(4) Is free from defects in materials and workmanship in emission related parts which, at the time of certification by the state board, are estimated by the manufacturer to cost individually more than three hundred dollars ($300) to replace, for a period of seven years or 70,000 miles, whichever first occurs.

(b) The state board shall, by regulation, periodically revise the three hundred dollar ($300) replacement cost level specified in paragraph (4) of subdivision (a) in accordance with the consumer price index, as published by the United States Bureau of Labor Statistics.

(c) For purposes of this section and Sections 43204 and 43205.5, a motorcycle is not a light-duty vehicle.

(Amended Ch. 1154, Stats. 1989. Effective January 1, 1990.)

43205.5. Commencing with the 1990 model-year, the manufacturer of each motor vehicle and motor vehicle engine, other than a light-duty or medium-duty motor vehicle or motor vehicle engine, shall warrant to the ultimate purchaser and each subsequent purchaser that the motor vehicle or motor vehicle engine meets all of the following requirements:

(a) Is designed, built, and equipped so as to conform with the applicable emission standards specified in this part for a period of use determined by the state board.

(b) Is free from defects in materials and workmanship which cause the motor vehicle or motor vehicle engine to fail to conform with applicable requirements specified in this part for the same or lesser period of use established under subdivision (a).

(Added Ch. 1544, Stats. 1988. Effective January 1, 1989.)

43206. Commencing January 1, 1982, and annually thereafter, every person who manufactures new motor vehicles for sale in California shall file with the state board a report as to the person's efforts and progress in meeting state standards adopted pursuant to Section 43101 and federal standards and research objectives specified in Section 7521 of Title 42 of the United States Code.

The reports shall be available to the public. However, the manufacturer may designate that a portion of the report is a trade secret and the portion shall not be released except to the state board employees specifically designated by the executive officer, unless the state board, after an investigation, determines that the portion is not in fact a trade secret. State board employees having access to the trade secret shall maintain its confidentiality.

The state board shall conduct investigations with respect to the reports as it deems necessary.

No report is required from the manufacturer once all models of motor vehicles of the manufacturer which are sold in California and which are subject to the state standards adopted pursuant to Section 43101, and the federal standards and research objectives specified in Section 7521 of Title 42 of the United States Code, meet all those standards and objectives.

(Amended Ch. 711, Stats. 1992. Effective September 15, 1992.)

43207. The state board may revoke outstanding certification of new motor vehicles for sale in California if the manufacturer thereof willfully fails to file any semiannual report required by Section 43206 or files a report which is deemed by the state board to inadequately describe the manufacturer's efforts and progress.

The state board may also withhold future certification of such manufacturer's vehicles until such time as the manufacturer offers for sale in California vehicles which meet the standards promulgated pursuant to Section 1857f-1(b)(1) of Title 42 of the United States Code.

43208. Factory assembly line test procedures shall not apply to light-duty motor vehicles, if (a) the manufacturer thereof advises the state board in writing that the manufacturer does not intend to sell more than 1,000 motor vehicles in California in a given model year, and (b) the manufacturer does not sell more than 1,000 motor vehicles of its make in such a year. Nothing in this section shall be construed to prohibit the state board from requiring testing by the applicable certifying test procedure of up to 2 percent of the motor vehicles of such a manufacturer sold in California. This section shall not apply to 1976 and later model year motor vehicles.

(Amended Ch. 1063, Stats. 1976. Effective September 20, 1976.)

43209. No manufacturer or distributor who pays a penalty pursuant to Section 43212 shall add the amount of such penalty to the cost of any motor vehicles sold by such manufacturer, and any provision of any contract of sale including such penalty as part of the cost of a motor vehicle shall be void and unenforceable.

43210. (a) The state board shall provide, by regulation, for the testing of motor vehicles on factory assembly lines or in a manner which the state board determines best suited to carry out the purpose of this part and this section.

(b) If a motor vehicle does not meet the prescribed assembly line standards, the motor vehicle may be retested according to the official test procedures upon which original certification for that make and model vehicle was based. Any motor vehicle meeting the applicable emission standards by either of the testing procedures shall be deemed to meet the emission standards of the State of California and shall be eligible for sale in this state.

(c) The regulations adopted by the state board pursuant to subdivision (a) shall provide for reduced, statistically valid testing of motor vehicles contained in large engine families and for which initial test results indicate compliance with the applicable standards.

(Amended Ch. 1185, Stats. 1981. Effective January 1, 1982.)

43211. No new motor vehicle shall be sold in California that does not meet the emission standards adopted by the state board, and any manufacturer who sells, attempts to sell, or causes to be offered for sale a new motor vehicle that fails to meet the applicable emission standards shall be subject to a civil penalty of five thousand dollars ($5,000) for each such action.

Any penalty recovered pursuant to this section shall be deposited into the General Fund.

43212. Any manufacturer or distributor who does not comply with the emission standards or the test procedures adopted by the state board shall be subject to a civil penalty of fifty dollars ($50) for each vehicle which does not comply with the standards or procedures and which is first sold in this state. The payment of such penalties to the state board shall be a condition to the further sale by such manufacturer or distributor of motor vehicles in this state.

Any penalty recovered pursuant to this section shall be deposited into the Air Pollution Control Fund.

43213. Sections 43211 and 43212 shall be enforced by the state board, and may be enforced by the Department of the California Highway Patrol, the Department of Motor Vehicles, and the bureau.

(Amended Sec. 85, Ch. 91, Stats. 1995. Effective January 1, 1996.)

Used Motor Vehicles

43600. The state board shall adopt and implement emission standards for used motor vehicles for the control of emissions therefrom, which standards the state board has found to be necessary and technologically feasible to carry out the purposes of this division; however, the installation of certified devices on used motor vehicles shall not be mandated except by statute. Such standards may be applicable to motor vehicle engines, rather than to motor vehicles.

43601. The state board shall certify exhaust devices for 1955 through 1965 model year motor vehicles.

43610. The state board shall set standards for, and certify, exhaust devices to significantly reduce the emission of oxides of nitrogen from 1966 through 1970 model year motor vehicles, as determined by the state board from a representative sampling of such motor vehicles, which the state board has found to be necessary and technologically feasible to carry out the purposes of this division.

In setting standards under this section, the primary consideration shall be the greatest possible reduction of oxides of nitrogen.

43650. Every 1955 and later model motor vehicle shall be equipped with the certified device as required by the Department of Motor Vehicles Manual of Registration Procedures as of January 1, 1975, or as amended to reflect the adoption of rules and regulations by a district board pursuant to Section 43658.

43653. Every 1966 or later model year motor vehicle, subject to registration and first sold and registered in this state, shall be equipped with a certified device to control its crankcase emissions and exhaust emissions.

43654. (a) Except as otherwise provided in subdivision (b), every 1966 through 1970 light-duty motor vehicle, subject to registration in this state, shall be equipped with a certified device to control its exhaust emission of oxides of nitrogen upon initial registration, upon transfer of ownership and registration, and upon registration of a motor vehicle previously registered outside this state.

(b) Subdivision (a) shall not apply to a 1966 through 1970 light-duty motor vehicle (1) which is registered to, or subject to registration by, an elderly low-income person, (2) which was purchased from a person other than a dealer or a person holding a retail seller's permit, and (3) which is used principally by or for the benefit of the elderly low-income person. However, only one vehicle described above shall be registered to, or subject to registration by, the elderly low-income person at any one time.

(c) For purposes of subdivision (b), the Department of Motor Vehicles may require satisfactory proof (1) of the age of the transferee of the motor vehicle, (2) of the combined adjusted gross income of the household in which the transferee resides, and (3) that the transferor of the motor vehicle is a person other than a dealer or a person holding a retail seller's permit.

(Amended Ch. 664, Stats. 1982. Effective January 1, 1983.)

43655. (a) The state board shall adopt, by regulation, schedules of installation of certified devices to control exhaust emissions for purposes of Section 43652, after consultation with the Department of the California Highway Patrol, the Department of Motor Vehicles, and the bureau.

(b) In establishing the schedules, the state board shall consider all relevant factors, including, but not limited to, the burden of enforcement on the Department of the California Highway Patrol, the Department of Motor Vehicles, and the bureau, the need for rapid installation of motor vehicle pollution control devices in order to preserve and protect the public health, and the existing ambient air quality in the air basins.

(Amended Sec. 87, Ch. 91, Stats. 1995. Effective January 1, 1996.)

43659. (a) The state board shall annually review the requirement that an exhaust device be installed on every 1955 through 1965 model year light-duty motor vehicle upon initial registration, upon transfer of ownership and registration, or upon registration of a motor vehicle previously registered outside this state, to determine the contribution of that requirement to the maintenance of required ambient air quality standards in those air basins where the requirement is applicable.

(b) In making its determination, the state board shall consider all relevant factors, including, but not limited to, the fact that the requirement is being imposed on a constantly decreasing number of motor vehicles.

(c) Upon a determination by the state board by regulation that the requirement is no longer a significant factor to the maintenance of required ambient air quality standards in any applicable air basin, except as provided in subdivision (d), 1955 through 1965 model year light-duty motor vehicles in that air basin shall no longer be required to be so equipped.

(d) All 1955 through 1965 model year light-duty motor vehicles equipped with an exhaust device pursuant to the requirement prior to the adoption of the regulation by the state board pursuant to subdivision (c) shall continue to be so equipped.

(Amended Ch. 664, Stats. 1982. Effective January 1, 1983.)

43660. The state board shall review the requirement that every 1966 through 1970 light-duty motor vehicle be equipped with a certified device to control its exhaust emissions of oxides of nitrogen upon initial registration and upon transfer of ownership and registration, to determine the contribution of that requirement to the maintenance of ambient air quality standards in the state and the cost effectiveness of that requirement. The state board shall report to the Legislature its findings and recommendations with regard to the requirement not later than January 1, 1984.

(Added Ch. 892, Stats. 1982. Effective January 1, 1983.)

43701. (a) Not later than July 15, 1992, the state board, in consultation with the bureau and the review committee established pursuant to subdivision (a) of Section 44021, shall, after a public hearing, adopt regulations that require that owners or operators of heavy-duty diesel motor vehicles perform regular inspections of their vehicles for excessive emissions of smoke. The inspection procedure, the frequency of inspections, the emission standards for smoke, and the actions the vehicle owner or operator is required to take to remedy excessive smoke emissions shall be specified by the state board. Those standards shall be developed in consultation with interested parties. The smoke standards adopted under this subdivision shall not be more stringent than those adopted under Chapter 5 (commencing with Section 44000).

(b) Not later than December 15, 1993, the state board shall, in consultation with the State Energy Resources Conservation and Development Commission, and after a public hearing, adopt regulations that require that heavy-duty diesel motor vehicles subject to subdivision (a) utilize emission control equipment and alternative fuels. The state board shall consider, but not be limited to, the use of cleaner burning diesel fuel, or other methods which will reduce gaseous and smoke emissions to the greatest extent feasible, taking into consideration the cost of compliance. The regulations shall provide that any significant modification of the engine necessary to meet these requirements shall be made during a regularly scheduled major maintenance or overhaul of the vehicle"s engine. If the state board requires the use of alternative fuels, it shall do so only to the extent those fuels are available.

(c) The state board shall adopt emissions standards and procedures for the qualification of any equipment used to meet the requirements of subdivision (b), and only qualified equipment shall be used.

(d) To the extent permissible under federal law, commencing January 1, 2006, the owner or operator of any commercial motor truck, as defined in Section 410 of the Vehicle Code, with a gross vehicle weight rating (GVWR) greater than 10,000 pounds that enters the state for the purposes of operating in the state shall maintain, and provide upon demand to enforcement authorities, evidence demonstrating that its engine met the federal emission standards applicable to commercial heavy-duty engines for that engine's model-year at the time it was manufactured, pursuant to the protocol and regulations developed and implemented pursuant to subdivision (e).

(e) The state board, not later than January 1, 2006, in consultation with the California Highway Patrol, shall develop, adopt, and implement regulations establishing an inspection protocol for determining whether the engine of a truck subject to the requirements of subdivision (d) met the federal emission standard applicable to heavy-duty engines for that engine's model-year at the time it was manufactured.

(Amended Sec. 2, Ch. 873, Stats. 2004. Operative September 29, 2004.)

Article 4. Smog Index Decals

43706. (a) The state board shall petition the Federal Trade Commission, pursuant to Part 455 of Title 16 of the Code of Federal Regulations, for a limited exemption from the Federal Trade Commission's Buyer's Guide, to allow this state to incorporate into the Buyer's Guide utilized by motor vehicle dealers in this state, a smog index chart pursuant to subdivision (b) of Section 44254.

(b) Ninety days following approval by the Federal Trade Commission of a petition pursuant to subdivision (a), it shall be unlawful for any motor vehicle dealer licensed by the Department of Motor Vehicles to display or offer for sale any used vehicle unless there is affixed to the vehicle the Federal Trade Commission's Buyer's Guide as required by Part 455 of Title 16 of the Code of Federal Regulations which includes a smog index chart pursuant to subdivision (b) of Section 44254. Ninety days following the final disapproval by the Federal Trade Commission of a petition pursuant to subdivision (a), it shall be unlawful for any motor vehicle dealer licensed by the Department of Motor Vehicles to display or offer for sale any used vehicle unless there is attached, by a perforated attachment, to the Federal Trade Commission's Buyer's Guide as required by Part 455 of Title 16 of the Code of Federal Regulations, a smog index chart pursuant to subdivision (b) of Section 44254.

(c) Subdivisions (a) and (b) shall not apply to any vehicle sold by either (1) a dismantler after being reported for dismantling pursuant to Section 11520 of the Vehicle Code or (2) a salvage pool after obtaining a salvage certificate pursuant to Section 11515 of the Vehicle Code. Subdivisions (a) and (b) shall also not apply to any vehicle sold to a dealer or sold for the purpose of being legally wrecked or dismantled.

(Added Ch. 1192, Stats. 1994. Effective January 1, 1995.)

43707. This article shall become inoperative five years from the date determined pursuant to Section 32 of the act adding this article, and on the January 1 following that date is repealed.

(Added Ch. 1192, Stats. 1994. Effective January 1, 1995.)

NOTE: The preceding section shall remain in effect for five years from the date determined pursuant to Section 32 of Chapter 1192, Stats. of 1994, and on the following January 1 it is repealed.

Low-Emission Motor Vehicles

43800. As used in this article, "low-emission motor vehicle" means a motor vehicle which has been certified by the state board to meet all applicable emission standards and which meets at least one of the following additional requirements:

(a) Is capable of operating on methanol, as determined by the state board, and will have an adverse impact on ambient ozone air quality not greater than a vehicle which meets the requirements of subdivision (c).

(b) Is capable of operating on any available fuel other than gasoline or diesel and, in the determination of the state board, will have an adverse impact on ambient ozone air quality not greater than a vehicle operating on methanol.

(c) Operates exclusively on gasoline and is certified to meet a hydrocarbon exhaust emission standard which is at least twice as stringent as otherwise applicable to gasoline vehicles of the same year and class.

(d) Is capable, in the case of a heavy-duty diesel vehicle, of meeting standards for either oxides of nitrogen or particulate matter that are twice as stringent as otherwise applicable.

(e) Has been modified from its configuration, as originally certified by the state board, by the use of an emissions retrofit device approved for use on the vehicle, and which reduces the combined emissions of ozone precursor chemicals from the vehicle by at least 30 percent.

(f) This section shall become inoperative five years from the date determined pursuant to Section 32 of the act adding this subdivision, and on January 1 following that date is repealed.

(Added Ch. 1192, Stats. 1994. Effective January 1, 1995.)

NOTE: The preceding section shall remain in effect for five years from the date determined pursuant to Section 32 of Chapter 1192, Stats. of 1994, and on the following January 1 it is repealed.

43800. As used in this article, "low-emission motor vehicle" means a motor vehicle which has been certified by the state board to meet all applicable emission standards and which meets at least one of the following additional requirements:

(a) Is capable of operating on methanol, as determined by the state board, and will have an adverse impact on ambient ozone air quality not greater than a vehicle which meets the requirements of subdivision (c).

(b) Is capable of operating on any available fuel other than gasoline or diesel and, in the determination of the state board, will have an adverse impact on ambient ozone air quality not greater than a vehicle operating on methanol.

(c) Operates exclusively on gasoline and is certified to meet a hydrocarbon exhaust emission standard which is at least twice as stringent as otherwise applicable to gasoline vehicles of the same year and class.

(d) Is capable, in the case of a heavy-duty diesel vehicle, of meeting standards for either oxides of nitrogen or particulate matter that are twice as stringent as otherwise applicable.

(e) This section shall become operative five years from the date determined pursuant to Section 32 of the act adding this section.

(Amended Ch. 1192, Stats. 1994. Effective January 1, 1995.)

NOTE: The preceding section shall become operative five years from the date determined pursuant to Section 32 of Chapter 1192, Stats. of 1994.

43801. The Legislature finds and declares that emission of air pollutants from motor vehicles is a major contributor to air pollution within the State of California and, therefore, declares its policy to encourage the development and testing of various types of low-emission motor vehicles, which would contribute substantially to achieving a pure and healthy atmosphere for the people of this state.

43802. Low-emission motor vehicles shall be submitted to the state board for testing to determine if such vehicle meets the standard set forth in Section 43800.

43803. For each vehicle identified by the state board as a low-emission motor vehicle, the Department of General Services, in consultation with the state board and the State Energy Resources Conservation and Development Commission, shall determine if the low-emission motor vehicle meets all of the following requirements:

(a) The vehicle can be manufactured or obtained in sufficient numbers for the purpose of proper evaluation.

(b) The vehicle meets the performance needs for state vehicles.

(c) The cost of the vehicle does not exceed by more than 100 percent the average cost of comparable state vehicles purchased in the preceding fiscal year.

(d) If the vehicle is purchased by the state, there would be a sufficient number of servicing and maintenance outlets.

(e) The average operating and maintenance costs for the vehicle are comparable to the average operating and maintenance costs for all other state passenger vehicles. In no event, however, shall the average operating and maintenance costs for the vehicle exceed the average costs of operating and maintaining all other state vehicles by more than 50 percent.

(Amended Ch. 796, Stats. 1989. Effective January 1, 1990.)

43804. (a) If a low-emission motor vehicle meets the requirements of this chapter and the performance, cost, service, and maintenance requirements adopted by the Department of General Services for such motor vehicles, and if funds are appropriated for the purpose of purchasing motor vehicles, the state shall purchase, beginning with the next fiscal year, as many of such low-emission motor vehicles as the Department of General Services determines are reasonable and available to meet state needs.

(b) If a sufficient number of low-emission motor vehicles are available, the percentage of all such motor vehicles to be purchased in that year shall not be less than 25 percent of all motor vehicles purchased by the state in the preceding fiscal year. In purchasing vehicles pursuant to this section, the state shall seek to acquire a mix of least polluting and least cost qualifying low-emission motor vehicles.

(Amended Ch. 796, Stats. 1989. Effective January 1, 1990.)

43805. The provisions of this chapter shall not apply to the following motor vehicles:

(a) Patrol cars of the Department of the California Highway Patrol.

(b) Any motor vehicle classified as a special-purpose vehicle by the Department of General Services.

43806. On or before January 1, 1993, the state board shall adopt emission standards and procedures applicable to new engines used in publicly owned and privately owned public transit buses, and shall make the standards and procedures effective on or before January 1, 1996. The standards shall consider the engine and fuel as a system

and shall reflect the use of the best emission control technologies expected to be available at the time the standards and procedures become effective. In adopting standards, the state board shall consider the projected costs and availability of cleaner burning alternative fuels and low-emission vehicles compared with other air pollution control measures.

(Added Ch. 496, Stats. 1991. Effective January 1, 1992.)

Fuel System Evaporative Loss Control Devices

43821. In adopting criteria for the certification of fuel system evaporative loss control devices, the state board shall take into consideration the cost of the device and its installation, its durability, the ease and facility of determining whether the device, when installed on a motor vehicle, is properly functioning, and any other factors which, in the opinion of the state board, render such a device suitable or unsuitable for the control of motor vehicle air pollution or for the health, safety, and welfare of the public.

43823. The installation of a certified fuel system evaporative loss control device on used motor vehicles shall not be mandated except by statute.

43824. The state board may adopt, by regulation, standards and test procedures for the certification of fuel system evaporative loss control devices on new motor vehicles in the absence of any such federal regulations.

In such case, no new motor vehicle may be sold and registered in this state unless it conforms to such regulations adopted by the state board.

Motor Vehicle Inspection Program

44000. By the enactment of the 1994 amendments to this chapter made pursuant to the act that added this section, the Legislature hereby declares its intent to meet or exceed the air quality standards established by the amendments enacted to the federal Clean Air Act in 1990 (42 U.S.C. Sec. 7401 et seq., as amended by P.L. 101-549), to enhance and improve the existing vehicle inspection and maintenance network, and to periodically monitor the performance of the network against stated objectives.

(Repealed and added Ch. 27, Stats. 1994. Effective March 30, 1994.)

44001.3. The Legislature hereby finds and declares as follows:

(a) Under the state's previous smog check program, a motor vehicle owner could obtain unlimited repair cost waivers and, therefore, avoid repair of a polluting vehicle.

(b) As a result, many vehicles were reregistered year after year and allowed to continue to pollute the air.

(c) Repairing high-polluting and gross polluting vehicles (which pollute 2 to 25 times more than the average vehicle that passes a smog check) could significantly improve California air quality and allow the state to meet federal clean air goals.

(d) The existing repair cost limit for smog repairs is a minimum of four hundred fifty dollars ($450) in all areas where the enhanced smog check program operates; fifty dollars ($50) to three hundred dollars ($300) based on the model year of the vehicle where the enhanced program is not fully implemented; and no cost limit for the repair of gross polluting vehicles.

(e) Without state financial assistance to repair a vehicle, a low-income vehicle owner is forced to either scrap the vehicle or drive an unregistered vehicle.

(Added Sec. 1, Ch. 804, Stats. 1997. Effective January 1, 1998.)

44002. The department shall have the sole and exclusive authority within the state for developing and implementing the motor vehicle inspection program in accordance with this chapter.

For the purposes of administration and enforcement of this chapter, the department, and the director and officers and employees thereof, shall have all the powers and authority granted under Division 1 (commencing with Section 1) and Division 1.5 (commencing with Section 475) and Chapter 20.3 (commencing with Section 9880) of Division 3 of the Business and Professions Code and under Chapter 33 (commencing with Section 3300) of Title 16 of the California Code of Regulations. Inspections and repairs performed pursuant to this chapter, in addition to meeting the specific requirements imposed by this chapter, shall also comply with all requirements imposed pursuant to Division 1 (commencing with Section 1) and Division 1.5 (commencing with Section 475) and Chapter 20.3 (commencing with Section 9880) of Division 3 of the Business and Professions Code and Chapter 33 (commencing with Section 3300) of Title 16 of the California Code of Regulations.

(Amended Ch. 1433, Stats. 1990. Effective January 1, 1991.)

44004. (a) The motor vehicle inspection program provided by this chapter, when implemented in a district, shall supersede and replace any other program for motor vehicle emission inspection in the district.

However, this chapter shall not apply to any vehicle permanently located on an island in the Pacific Ocean located 20 miles or more from the mainland coast.

(b) The motor vehicle inspection program provided by this chapter shall be in accordance with Sections 4000.1, 4000.2, and 4000.3 of the Vehicle Code.

(Added Ch. 892, Stats. 1982. Effective January 1, 1983.)

44005. (a) The Department of Motor Vehicles shall cooperate with the department in implementing any changes to enhance the program to achieve greater efficiency, cost effectiveness, and convenience, or to reduce excess emissions in accordance with this chapter.

(b) The program shall provide for inspection of specified motor vehicles, as determined by the department, upon initial registration, biennially upon renewal of registration, upon transfer of ownership, upon the issuance of a notice of noncompliance to a gross polluter pursuant to Section 44081, and as otherwise provided in this chapter.

(Amended Sec. 4, Ch. 803, Stats. 1997. Effective January 1, 1998.)

Program Requirements

44010. The motor vehicle inspection program shall provide for privately operated stations which shall be referred to as smog check stations and are authorized pursuant to Section 44015 to issue certificates of compliance or noncompliance to vehicles which meet the requirements of this chapter.

(Amended Ch. 27, Stats. 1994. Effective March 30, 1994.)

44010.5. (a) The department shall implement a program with the capacity to commence, by January 1, 1995, the testing at test-only facilities, in accordance with this chapter, of 15 percent of that portion of the total state vehicle fleet consisting of vehicles subject to inspection each year in the biennial program and that are registered in the enhanced program area, as established pursuant to paragraph (1) of subdivision (a) of Section 44003.

(b) (1) The department shall increase the capacity of the program so that the capacity exists to commence, by January 1, 1996, the testing at test-only facilities of that portion of the state vehicle fleet that is subject to inspection and is registered in the enhanced program area, which is sufficient to meet the emission reduction performance standards established by the Environmental Protection Agency in regulations adopted pursuant to the Clean Air Act Amendments of 1990, taking into account the results of the pilot demonstration program established pursuant to Section 44081.6.

(2) Upon increasing the capacity of the program pursuant to paragraph (1), the department shall afford smog check stations that are licensed and certified pursuant to Sections 44014 and 44014.2 the initial opportunity to perform the required inspections. The department shall adopt, by regulation, the requirements to provide that initial opportunity.

(3) If the department determines that there is an insufficient number of licensed test-only smog check stations operating in an enhanced area to meet the increased demand for test-only inspections, the department may increase the capacity of the program by utilizing existing contracts.

(c) The program shall utilize loaded mode dynamometer test equipment, as determined through the pilot demonstration program.

(d) Vehicles in the enhanced program area which are not subjected to the program established by this section may be tested at smog check stations licensed pursuant to Section 44014 that use loaded mode dynamometers.

(e) (1) The department may implement the program established pursuant to subdivision (a) through a network of privately operated test-only facilities established pursuant to contracts to be awarded pursuant to this section.

(2) The initial contracts awarded pursuant to this section shall terminate not later than seven years from the date that the contracts were executed.

(f) No person shall be a contractor of the department for test-only facilities in all air basins, exclusively, where the enhanced program is in effect unless the department determines, after a public hearing, that there is not more than one qualified contractor. The South Coast Air Basin shall have at least two contractors, and the combined enhanced program area that includes Bakersfield, Fresno, and

Sacramento shall have at least two contractors. The department may operate test-only facilities on an interim basis while contractors are being sought.

(g) (1) In awarding contracts under this section, the department shall request bids through the issuance of a request for proposal.

(2) The department shall first determine which bidders are qualified, and then award the contract to the qualified bidder, giving priority to the test cost and convenience to motorists.

(3) The department shall provide a contractual preference, as determined by the department, not to exceed 10 percent of the total proposal evaluation score, based on the following factors:

(A) Up to 5 percent to bidders providing firm commitments to employ businesses that are licensed or otherwise substantially participating in the smog check program after January 1, 1994.

(B) Up to 5 percent to bidders based on the extent to which bidders maximize the potential economic benefit of the smog check program on this state over the term of the contract. That potential economic benefit shall include the percentage of work performed by California-based firms, the potential of the total project work force who will be California residents, and the percentage of subcontracts that will be awarded to California-based firms.

(4) Any contract executed by the department for the operation of a test-only facility shall expressly require compliance with this chapter and any regulations adopted by the department pursuant to this chapter.

(h) The department shall ensure that there is a sufficient number of test-only facilities, and that they are properly located, to ensure reasonable accessibility and convenience to all persons within an enhanced program area, and that the waiting time for consumers is minimized. The department may operate test-only facilities on an interim basis to ensure convenience to consumers. The department shall specify in the request for proposal the minimum number of test-only facilities that are required for the program. Any contracts initially awarded pursuant to this section shall ensure that the contractors are capable of fulfilling the requirements of subdivision (a).

(i) Any data generated at a test-only facility shall be the property of the state, and shall be fully accessible to the department at any time. The department may set contract specifications for the storage of that data in a central data storage system or facility designated by the department.

(j) The department shall ensure an effective transition to the new program by implementing an effective public education program and may specify in the request for proposal a dollar amount that bidders are required to include in their bids for public education activities, to be implemented pursuant to Section 44070.5.

(k) The department shall ensure the effective management of the test-only facilities and shall specify in the request for proposal that a manager be present during all hours of station operation.

(*l*) The department shall ensure and facilitate the effective transition of employees of businesses that are licensed or otherwise substantially participating in the smog check program and may specify in the request for proposal that test-only facility management be Automotive Service Excellence (ASE) certified, or be certified by a comparable program as determined by the department.

(m) As part of the contracts to be awarded pursuant to subdivision (e), the department may require contractors to perform functions previously undertaken by referee stations throughout the state, as determined by the department, at some or all of the affected stations in enhanced areas, and at additional stations outside enhanced areas only to the extent necessary to provide appropriate access to referee functions.

(n) Notwithstanding any other provision of law, to avoid delays to the program implementation timeline required by this chapter or the Clean Air Act, the Department of General Services, at the request of the department, may exempt contracts awarded pursuant to this section from existing laws, rules, resolutions, or procedures that are otherwise applicable, including, but not limited to, restrictions on awarding contracts for more than three years. The department shall identify any exemptions requested and granted pursuant to this subdivision and report thereon to the Legislature.

(o) This section shall not be implemented unless the memorandum of agreement described in Section 44081.6 is signed by both the California Environmental Protection Agency and the Environmental Protection Agency.

(p) The department shall implement the program established in this section only in urbanized areas classified by the Environmental Protection Agency as a serious, severe, or extreme nonattainment area for ozone or a moderate or serious nonattainment area for carbon monoxide with a design value greater than 12.7 ppm, and shall not implement the program in any other area.

(q) If existing smog check stations, in order to participate in the enhanced program, have been required to make additional investments of more than ten thousand dollars ($10,000), the department shall submit recommendations to the Governor and the Legislature for any appropriate mitigation measures.

(Amended Sec. 2, Ch. 1088, Stats. 1996. Effective September 30, 1996.)

44011. (a) All motor vehicles powered by internal combustion engines that are registered within an area designated for program coverage shall be required biennially to obtain a certificate of compliance or noncompliance, except for all of the following:

(1) Every motorcycle, and every diesel-powered vehicle, until the department, pursuant to Section 44012, implements test procedures applicable to motorcycles or to diesel-powered vehicles, or both.

(2) Any motor vehicle that has been issued a certificate of compliance or noncompliance or a repair cost waiver upon a change of ownership or initial registration in this state during the preceding six months.

(3) Any motor vehicle manufactured prior to the 1976 model-year.

(4) (A) Except as provided in subparagraph (B), any motor vehicle four or less model-years old.

(B) Beginning January 1, 2005, any motor vehicle six or less model-years old, unless the state board finds that providing an exception for these vehicles will prohibit the state from meeting the requirements of Section 176(c) of the federal Clean Air Act (42 U.S.C. Sec. 7401 et seq.) or the state's commitments with respect to the state implementation plan required by the federal Clean Air Act.

(C) Any motor vehicle excepted by this paragraph shall be subject to testing and to certification requirements as determined by the department, if any of the following apply:

(i) The department determines through remote sensing activities or other means that there is a substantial probability that the vehicle has a tampered emission control system or would fail for other cause a smog check test as specified in Section 44012.

(ii) The vehicle was previously registered outside this state and is undergoing initial registration in this state.

(iii) The vehicle is being registered as a specially constructed vehicle.

(iv) The vehicle has been selected for testing pursuant to Section 44014.7 or any other provision of this chapter authorizing out-of-cycle testing.

(5) In addition to the vehicles exempted pursuant to paragraph (4), any motor vehicle or class of motor vehicles exempted pursuant to subdivision (b) of Section 44024.5. It is the intent of the Legislature that the department, pursuant to the authority granted by this paragraph, exempt at least 15 percent of the lowest emitting motor vehicles from the biennial smog check inspection.

(6) Any motor vehicle that the department determines would present prohibitive inspection or repair problems.

(7) Any vehicle registered to the owner of a fleet licensed pursuant to Section 44020 if the vehicle is garaged exclusively outside the area included in program coverage, and is not primarily operated inside the area included in program coverage.

(b) Vehicles designated for program coverage in enhanced areas shall be required to obtain inspections from appropriate smog check stations operating in enhanced areas.

(c) For purposes of subdivision (a), any collector motor vehicle, as defined in Section 259 of the Vehicle Code, is exempt from those portions of the test required by subdivision (f) of Section 44012 if the collector motor vehicle meets all of the following criteria:

(1) Submission of proof that the motor vehicle is insured as a collector motor vehicle, as shall be required by regulation of the bureau.

(2) The motor vehicle is at least 35 model-years old.

(3) The motor vehicle complies with the exhaust emissions standards for that motor vehicle's class and model-year as prescribed by the department, and the motor vehicle passes a functional inspection of the fuel cap and a visual inspection for liquid fuel leaks.

(Amended Sec. 2, Ch. 704, Stats. 2004. Effective April 1, 2005.)

44011.1. For purposes of Section 44011, the term "registered within an area designated for program coverage" includes any vehicle registered pursuant to the Vehicle Code in this state when the registered owner's mailing or residence address is not located within this state, or when the address at which the vehicle is garaged is not located within this state.

(Added Ch. 633, Stats. 1993. Effective January 1, 1994.)

44011.3. Every motor vehicle that is subject to testing pursuant to this chapter may be pretested. As used in this section, a pretest is a smog inspection in which the motor vehicle is submitted to some or all of the required elements of the emissions inspection as specified in Section 44012, the results of which will not be reported to the Department of Motor Vehicles and for which a certificate will not be issued. A person choosing to have his or her vehicle pretested has the right to have a complete pretest of the vehicle unless the person requests a partial pretest. If the person requests a partial pretest, the licensed technician or an authorized representative of the licensed smog check station shall inform the vehicle owner that the partial pretest may not indicate the likelihood of the vehicle passing a subsequent official inspection.

(Added Sec. 1, Ch. 938, Stats. 1998. Effective January 1, 1999.)

44011.5. Documentation that a motor vehicle is exempt from the requirements of Section 44011 may not be based solely on the owner's statement that the vehicle is in an exempt category. Physical inspection of the vehicle by the department is required unless alternative documentation satisfactory to the department is available.

(Amended Ch. 1544, Stats. 1988. Effective January 1, 1989.)

44014. (a) Except as otherwise provided in this chapter, the testing and repair portion of the program shall be conducted by smog check stations licensed by the department, and by smog check technicians who have qualified pursuant to this chapter.

(b) (1) A smog check station may be licensed by the department as a smog check test-only station and, when so licensed, need not comply with the requirement for onsite availability of current service and adjustment procedures specified in paragraph (3) of subdivision (b) of Section 44030. A smog check technician employed by a smog check test-only station shall be qualified in accordance with this section.

(2) The department may authorize the placement of referees in qualified test-only stations to provide referee services as a matter of convenience to the public. The department shall supply those referees directly or through a contractor. A referee shall have no ownership interest in the facility at which the referee is located. Referees shall be solely responsible for issuing repair cost waivers, certificates of compliance or noncompliance, and hardship extensions, in accordance with regulations adopted by the department, and for issuing exhaust system certificates of compliance in accordance with Section 27150.2 of the Vehicle Code.

The department may adopt regulations to establish qualification standards and any special administrative, operational, and licensure standards that the department determines to be necessary for test-only stations that perform referee services.

(c) A smog check station may also be licensed as a repair-only station, and if so licensed, may perform repairs to reduce excessive emissions on vehicles which have failed the smog check test. Repair procedures and equipment requirements shall be established by the department. Technicians employed by a smog check repair-only station shall be qualified in accordance with this section.

(d) Smog check technicians are qualified to test and repair only those classes and categories of vehicles for which they have passed a qualification test administered by the department. The department shall provide for smog check technicians to be qualified for different categories of motor vehicle inspection based on vehicle classification and model-year.

(e) The consumer protection-oriented quality assurance portion of the program may be conducted by one or more private entities pursuant to contracts with the department.

(Amended Sec. 1, Ch. 569, Stats. 2002. Effective January 1, 2003.)

44014.5. (a) The enhanced program shall provide for the testing and retesting of vehicles in accordance with Sections 44010.5 and 44014.2 and this section.

(b) The repair of vehicles at test-only facilities shall be prohibited, except that the minor repair of components damaged by station personnel during inspection at the station, any minor repair that is necessary for the safe operation of a vehicle while at a station, or other minor repairs, such as the reconnection of hoses or vacuum lines, may be undertaken at no charge to the vehicle owner or operator if authorized in advance in writing by the department.

(c) The department shall provide for the distribution to consumers by test-only facilities of a list, compiled by region, of smog check stations licensed to make repairs of vehicular emission control systems. A test-only facility may not refer a vehicle owner to any particular provider of vehicle repair services.

(d) The department shall establish standards for training, equipment, performance, or data collection for test-only facilities.

(e) The department shall prohibit test-only facilities from engaging in other business activities that represent a conflict of interest, as determined by the department.

(f) The test-only facility may charge a fee, established by the department, sufficient to cover the facility's cost to perform the tests or services, including, but not limited to, referee services and the issuance of waivers and hardship extensions required by this chapter. In addition, the station shall charge and collect the certificate fee established pursuant to Section 44060. This subdivision shall apply only to facilities contracted for pursuant to subdivision (e) of Section 44010.5.

(g) The department shall ensure that there is a sufficient number of test-only facilities to provide convenient testing for the following vehicles:

(1) All vehicles identified and confirmed as gross polluters pursuant to Section 44081 and Section 27156 of the Vehicle Code.

(2) (A) Vehicles initially identified as gross polluters by a smog check station licensed as a test-and-repair station may be issued a certificate of compliance by a test-only facility or by a licensed smog check station certified pursuant to Section 44014.2 .

(B) For purposes of this section, the department shall implement a program that allows vehicles initially identified as gross polluters to be repaired and issued a certificate of compliance by a facility licensed and certified pursuant to Section 44014.2.

(3) All vehicles designated by the department pursuant to Sections 44014.7 and 44020.

(4) Vehicles issued an economic hardship extension in the previous biennial inspection of the vehicle.

(h) The department shall provide a sufficient number of test-only facilities authorized to perform referee functions to provide convenient testing for those vehicles that are required to report to, and receive a certificate of compliance from, a test-only facility by this chapter, including all of the following:

(1) All vehicles seeking to utilize state-operated financial assistance or inclusion in authorized scrap programs.

(2) All vehicles unable to obtain a certificate of compliance from a licensed smog check station pursuant to subdivision (c) of Section 44015.

(3) Any other vehicles that may be designated by the department.

(i) Gross polluters shall be referred to a test-only facility, or a test-and-repair station that is both licensed and certified pursuant to Sections 44014 and 44014.2, for a postrepair inspection and retest pursuant to subdivision (g). Simply passing the emissions test shall not be a sufficient condition for receiving a certificate of compliance. A certificate of compliance shall only be issued to a vehicle that does not have any defects with its emission control system or any defects that could lead to damage of its emission control system, as provided in regulations adopted by the department.

(Amended Sec. 5, Ch. 1001, Stats. 2002. Effective January 1, 2003.)

44014.7. (a) The department shall require 2 percent of the vehicles required to obtain a certificate of compliance each year in enhanced program areas to receive their certificate from a test-only facility.

(b) The department may require a number not to exceed 2 percent of the vehicles required to obtain a certificate of compliance each year in basic program areas to receive their certificate from a test-only facility.

(c) The vehicles specified in subdivisions (a) and (b) shall be selected at random. The vehicles may be included among the vehicles subject to subdivision (d) of Section 44010.5, to the extent that the vehicles are registered in enhanced program areas. The review committee may review the selection process to ensure that it is a statistically significant representation of the vehicles subject to the basic and enhanced programs. The department shall select the vehicles and the Department of Motor Vehicles shall notify the

owners of their obligation under this section pursuant to Section 4000.3 of the Vehicle Code. Selection shall be made from vehicles in an area where a test-only facility is located.

(Added Ch. 27, Stats. 1994. Effective March 30, 1994.)

44015. (a) A licensed smog check station shall not issue a certificate of compliance, except as authorized by this chapter, to any vehicle that meets the following criteria:

(1) A vehicle that has been tampered with.

(2) A vehicle that, prior to repairs, has been initially identified by the smog check station as a gross polluter. Certification of a gross polluting vehicle shall be conducted by a designated test-only facility, or a test-and-repair station that is both licensed and certified pursuant to Sections 44014 and 44014.2.

(3) A vehicle described in subdivision (c).

(b) If a vehicle meets the requirements of Section 44012, a smog check station licensed to issue certificates shall issue a certificate of compliance or a certificate of noncompliance.

(c) (1) A repair cost waiver shall be issued, upon request of the vehicle owner, by an entity authorized to perform referee functions for a vehicle that has been properly tested but does not meet the applicable emission standards when it is determined that no adjustment or repair can be made that will reduce emissions from the inspected motor vehicle without exceeding the applicable repair cost limit established under Section 44017 and that every defect specified by paragraph (2) of subdivision (a) of Section 43204, and by paragraphs (2) and (3) of subdivision (a) of Section 43205, has been corrected. A repair cost waiver issued pursuant to this paragraph shall be accepted in lieu of a certificate of compliance for the purposes of compliance with Section 4000.3 of the Vehicle Code. No repair cost waiver shall exceed two years' duration. No repair cost waiver shall be issued until the vehicle owner has expended an amount equal to the applicable repair cost limit specified in Section 44017.

(2) An economic hardship extension shall be issued, upon request of a qualified low-income motor vehicle owner, by an entity authorized to perform referee functions, for a motor vehicle that has been properly tested but does not meet the applicable emission standards when it is determined that no adjustment or repair can be made that will reduce emissions from the inspected motor vehicle without exceeding the applicable repair cost limit, as established pursuant to Section 44017.1, that every defect specified in paragraph (2) of subdivision (a) of Section 43204, and in paragraphs (2) and (3) of subdivision (a) of Section 43205, has been corrected, that the low-income vehicle owner would suffer an economic hardship if the extension is not issued, and that all appropriate emissions-related repairs up to the amount of the applicable repair cost limit in Section 44017.1 have been performed.

(d) No repair cost waiver or economic hardship extension shall be issued under any of the following circumstances:

(1) If a motor vehicle was issued a repair cost waiver or economic hardship extension in the previous biennial inspection of that vehicle. A repair cost waiver or economic hardship extension may be issued to a motor vehicle owner only once for a particular motor vehicle belonging to that owner. However, a repair cost waiver or economic hardship extension may be issued for a motor vehicle that participated in a previous waiver or extension program prior to January 1, 1998, as determined by the department. For waivers or extensions issued in the program operative on or after January 1, 1998, a waiver or extension may be issued for a motor vehicle only once per owner.

(2) Upon initial registration of all of the following:

(A) A direct import motor vehicle.

(B) A motor vehicle previously registered outside this state.

(C) A dismantled motor vehicle pursuant to Section 11519 of the Vehicle Code.

(D) A motor vehicle that has had an engine change.

(E) An alternate fuel vehicle.

(F) A specially constructed vehicle.

(e) Except as provided in subdivision (f), a certificate of compliance or noncompliance shall be valid for 90 days.

(f) ***Excluding any vehicle whose transfer of ownership and registration is described in subdivision (d) of Section 4000.1 of the Vehicle Code, and except as otherwise*** provided in Sections 4000.1, 24007, 24007.5, and 24007.6 of the Vehicle Code, a licensed motor vehicle dealer shall be responsible for having a smog check inspection performed on, and a certificate of compliance or noncompliance issued for, every motor vehicle offered for retail sale. A certificate issued to a licensed motor vehicle dealer shall be valid for a two-year period, or until the vehicle is sold and registered to a retail buyer, whichever occurs first.

(g) A test may be made at any time within 90 days prior to the date otherwise required.

(Amended Sec. 1, Ch. 270, Stats. 2005. Effective January 1, 2006.)

44015.5. (a) A certificate of compliance shall not be issued to any new motor vehicle or motor vehicle with a new motor vehicle engine which is not certified by the state board, and which is the subject of a transaction prohibited by Section 43152 or 43153.

(b) With respect to a new motor vehicle or motor vehicle with a new motor vehicle engine not certified by the state board which is in violation of Article 1.5 (commencing with Section 43150) of Chapter 2, but which is not the subject of a transaction prohibited by Section 43152 or 43153, a certificate of noncompliance shall be issued. The certificate of noncompliance shall indicate the basis for nonconformity and the data shall be sent to the state board.

(Added Ch. 1433, Stats. 1990. Effective January 1, 1991.)

44017. (a) Except as otherwise provided in this section or Section 44017.1, a motor vehicle owner shall qualify for a repair cost waiver only after expenditure of not less than four hundred fifty dollars ($450) for repairs, including parts and labor.

(b) The limit established pursuant to subdivision (a) shall not become operative until the department issues a public notice declaring that the program established pursuant to Section 44010.5 is operational in the relevant geographical areas of the state, or until the date that testing in those geographic areas is operative using loaded mode test equipment, as defined in this article, whichever occurs first. Prior to that time, the following cost limits shall remain in effect:

(1) For motor vehicles of 1971 and earlier model years, fifty dollars ($50).

(2) For motor vehicles of 1972 to 1974, inclusive, model years, ninety dollars ($90).

(3) For motor vehicles of 1975 to 1979, inclusive, model years, one hundred twenty-five dollars (125).

(4) For motor vehicles of 1980 to 1989, inclusive, model years, one hundred seventy-five dollars ($175).

(5) For motor vehicles of 1990 to 1995, inclusive, model years, three hundred dollars ($300).

(6) For motor vehicles of 1996 and later model years, four hundred fifty dollars (450).

(c) The department shall periodically revise the repair cost limits specified in subdivisions (a) and (b) in accordance with changes in the Consumer Price Index, as published by the United States Bureau of Labor Statistics.

(d) No repair cost limit shall be imposed in those cases where emissions control equipment is missing or is partially or totally inoperative as a result of being tampered with.

(Amended Sec. 4, Ch. 804, Stats. 1997. Effective January 1, 1998. Supersedes Sec. 10, Ch. 803.)

44017.1. (a) For purposes of this section, "low-income motor vehicle owner" means a person whose income does not exceed 185 percent of the federal poverty level.

(b) Notwithstanding subdivision (a) of Section 44017, for low-income motor vehicle owners qualified under Section 44062.1, the repair cost limit, including parts and labor, shall be two hundred fifty dollars ($250) in all areas where the program operates. However, the department may decrease that amount, to not more than two hundred dollars ($200), if the department determines that participation rates are unsatisfactory.

(c) Until such time as a repair assistance program becomes effective pursuant to Section 44062.1, an economic hardship extension shall be issued upon request to a qualified low-income motor vehicle owner whose motor vehicle has been tested but does not meet applicable emissions standards and the necessary repairs exceed the repair cost limit specified in subdivision (b).

(Amended Sec. 14, Ch. 67, Stats. 1999. Effective July 6, 1999.)

44017.4. (a) Upon registration with the Department of Motor Vehicles, a passenger vehicle or pickup truck that is a specially constructed vehicle, as defined in Section 580 of the Vehicle Code, shall be inspected by stations authorized to perform referee functions. This inspection shall be for the purposes of determining the engine model-year used in the vehicle or the vehicle model-year,

and the emission control system application. The owner shall have the option to choose whether the inspection is based on the engine model-year used in the vehicle or the vehicle model-year.

(1) In determining the engine model-year, the referee shall compare the engine to engines of the era that the engine most closely resembles. The referee shall assign the 1960 model-year to the engine in any specially constructed vehicle that does not sufficiently resemble a previously manufactured engine. The referee shall require only those emission control systems that are applicable to the established engine model-year and that the engine reasonably accommodates in its present form.

(2) In determining the vehicle model-year, the referee shall compare the vehicle to vehicles of the era that the vehicle most closely resembles. The referee shall assign the 1960 model-year to any specially constructed vehicle that does not sufficiently resemble a previously manufactured vehicle. The referee shall require only those emission control systems that are applicable to the established model-year and that the vehicle reasonably accommodates in its present form.

(b) Upon the completion of the inspection, the referee shall affix a tamper-resistant label to the vehicle and issue a certificate that establishes the engine model-year or the vehicle model-year, and the emission control system application.

(c) The Department of Motor Vehicles shall annually provide a registration to no more than the first 500 vehicles that meet the criteria described in subdivision (a) that are presented to that department for registration pursuant to this section. The 500-vehicle annual limitation does not apply to the renewal of registration of a vehicle registered pursuant to this section.

(Amended Sec. 1, Ch. 693, Stats. 2002. Effective January 1, 2003.)

44018. (a) The motor vehicle inspection program may include advisory safety equipment maintenance checks, fuel efficiency checks, or both, on the motor vehicle if the department finds that cost-effective methods for conducting those checks exist and that the cost of the inspection to the vehicle owner due to the additional checks would not be increased by more than 10 percent. The department shall specify the equipment to be checked and the procedures for conducting those checks.

(b) Notwithstanding subdivision (a), a motor vehicle sold at retail by a lessor-dealer licensed pursuant to Chapter 3.5 (commencing with Section 11600), or a dealer licensed pursuant to Chapter 4 (commencing with Section 11700), of Division 5 of the Vehicle Code shall not be subject to an advisory safety equipment maintenance check pursuant to this section.

(Amended Ch. 230, Stats. 1985. Effective January 1, 1986.)

44019. (a) Every public agency, including, but not limited to, a publicly owned public utility, owning or operating any motor vehicle that is exempt from annual renewal of registration, and is otherwise subject to this chapter, shall obtain for the vehicle a certificate of compliance with the same frequency as is required for vehicles subject to renewal of registration. The cost limitations specified in Section 44017 do not apply to any vehicle owned or operated by a public agency.

(b) Certificates of compliance required by subdivision (a) shall be issued if the vehicle meets the requirements of Section 44012 using a test analyzer system meeting the requirements of the department. Any certificate so issued shall be indexed by vehicle license plate number or vehicle identification number and retained by the public agency for not less than three years, and shall be available for inspection by the department.

(c) Every public agency subject to subdivision (a) shall annually report to the department the number of certificates issued, the number of motor vehicles owned, and the schedule under which the motor vehicles were issued certificates of compliance.

(d) The department may accept proof of compliance with this section other than by a certificate of compliance.

(Amended Ch. 1154, Stats. 1989. Effective January 1, 1990.)

44020. Notwithstanding any other provision of this chapter, the department may license any registered owner of a fleet of 10 or more motor vehicles subject to this chapter, who so elects, to implement and conduct the tests and to perform necessary service and adjustment on the fleet's vehicles under this chapter, subject to all of the following conditions:

(a) The registered owner's facilities or personnel, or both, or a designated contractor of the registered owner, shall be licensed by the department as a fleet smog check station, and the test and repair system shall conform, in the department's determination, with all provisions of this chapter and all rules and regulations adopted by the department. The regulations shall provide for adequate onsite inspection by the department. Mobile testing equipment certified by the department may be used in accordance with procedures established by the department. The department may prohibit the use of mobile testing equipment if violations occur.

(b) A license issued under this section is subject to Sections 44035, 44050, and 44072.10, and may be suspended or revoked by the department whenever the department determines, on the basis of random periodic spot checks of the owner's inspection system and fleet vehicles, that the system fails to conform or that certificates of compliance have been issued by the owner in violation of regulations adopted by the department. Any person licensed to conduct tests and service and adjustments under this section is deemed to have consented to provide the department with whatever access, information, and other cooperation the department reasonably determines are necessary to facilitate the random periodic spot checks.

(c) The department or its contractor, on a random periodic basis, shall inspect or observe the inspections performed by licensed fleet smog check stations on not less than 2 percent of the total business fleet vehicles subject to this chapter.

(d) A fleet owner licensed to conduct tests or make repairs pursuant to this chapter shall issue certificates of compliance for motor vehicles. The cost limits in Section 44017 and the economic hardship extension provisions in this chapter shall not apply to any motor vehicle owned by a fleet owner licensed pursuant to this section.

(e) Notwithstanding subdivision (d), certificates of compliance or noncompliance prepared solely for the disposal or sale of motor vehicles owned by a fleet owner licensed pursuant to this section shall be subject to the cost limits in Section 44017.

(f) The department shall establish initial and renewal license fees, which shall not exceed the reasonable costs of administering this section.

(g) Notwithstanding any other provision of this section, fleets consisting of vehicles for hire or vehicles which accumulate high mileage, as defined by the department, shall go to a test-only station when a smog check certificate of compliance is required. Initially, high mileage vehicles shall be defined as vehicles which accumulate 50,000 miles or more each year. In addition, fleets which do not operate high mileage vehicles may be required to obtain certificates of compliance from the test-only station if they fail to comply with this chapter.

(h) Notwithstanding any other provision of this chapter, the department shall have the authority, by regulation, to require testing of vehicle fleets consistent with regulations adopted by the Environmental Protection Agency, if necessary to meet the emission reduction performance standard established by the agency, as determined by the department.

(Amended Sec. 8, Ch. 982, Stats. 1994. Effective October 16, 1995.)

44041. In order to expedite emissions testing and to eliminate errors in the transcription of vehicle data, the department shall, in cooperation with the Department of Motor Vehicles, furnish bar code labels to all vehicle owners at the time of their vehicle's annual registration renewal. The labels shall contain vehicle identification numbers and other vehicle-specific information, to be determined by the department, which can be recorded by smog check station technicians utilizing the scanning devices required by Section 44036.

(Added Ch. 27, Stats. 1994. Effective March 30, 1994.)

Financial Provisions

44060. (a) The department shall prescribe the form of the certificate of compliance or noncompliance, repair cost waivers, and economic hardship extensions.

(b) The certificates, repair cost waivers, and economic hardship extensions shall be in the form of an electronic entry filed with the department, the Department of Motor Vehicles, and any other person designated by the department. The department shall ensure that the motor vehicle owner or operator is provided with a written report, signed by the licensed technician who performed the inspection, of any test performed by a smog check station, including a pass or fail indication, and written confirmation of the issuance of the certificate.

(c) (1) The department shall charge a fee to a smog check station, including a test-only station, and a station providing referee functions, for a motor vehicle inspected at that station that meets the

requirements of this chapter and is issued a certificate of compliance, a certificate of noncompliance, repair cost waiver, or economic hardship extension.

(2) The fee charged pursuant to paragraph (1) shall be calculated to recover the costs of the department and any other state agency directly involved in the implementation, administration, or enforcement of the motor vehicle inspection and maintenance program, and shall not exceed the amount reasonably necessary to fund the operation of the program, including all responsibilities, requirements, and obligations imposed upon the department or any of those state agencies by this chapter, that are not otherwise recoverable by fees received pursuant to Section 44034.

(3) Except for adjustments to reflect changes in the Consumer Price Index, as published by the United States Bureau of Labor Statistics, the fee for each certificate, waiver, or extension shall not exceed seven dollars ($7).

(4) Fees collected by the department pursuant to this subdivision shall be deposited in the Vehicle Inspection and Repair Fund. It is the intent of the Legislature that a prudent surplus be maintained in the Vehicle Inspection and Repair Fund.

(d) (1) Motor vehicles exempted under paragraph (4) of subdivision (a) of Section 44011 shall be subject to an annual smog abatement fee of twelve dollars ($12). The department may also, by regulation, subject motor vehicles that are exempted under paragraph (5) of subdivision (a) of Section 44011 to the twelve dollar ($12) annual smog abatement fee. Payment of the annual smog abatement fee shall be made to the Department of Motor Vehicles at the time of registration of the motor vehicle.

(2) Except as provided in subdivision (a) of Section 44091.1, fees collected pursuant to this subdivision shall be deposited on a daily basis into the Vehicle Inspection and Repair Fund.

(e) The sale or transfer of the certificate, waiver, or extension by a licensed smog check station or test-only station to any other licensed smog check station or to any other person, and the purchase or acquisition of the certificate, waiver, or extension, by any person, other than from the department, the department's designee, or pursuant to a vehicle's inspection or repair conducted pursuant to this chapter, is prohibited.

(f) Following implementation of the electronic entry certificate under subdivision (b), the department may require the modification of the analyzers and other equipment required at smog check stations to prevent the entry of a certificate that has not been issued or validated through prepayment of the fee authorized by subdivision (c).

(g) The fee charged by licensed smog check stations to consumers for a certificate, waiver, or extension shall be the same amount that is charged by the department.

(Amended Sec. 8, Ch. 230, Stats. 2004. Effective August 16, 2004.)

44061. The fees collected by the department pursuant to Sections 44034 and 44060, and penalties collected pursuant to Section 44050, shall be deposited in the Vehicle Inspection Fund in accordance with the procedures established by the department, and shall be available to the department to carry out its functions and duties specified in this chapter upon appropriation by the Legislature.

(Added Ch. 892, Stats. 1982. Effective January 1, 1983.)

Article 8. Gross Polluters

44080. The Legislature finds and declares as follows:

(a) Californias air is the most polluted in the nation and the largest source of that pollution is automobiles.

(b) California has the most stringent new car emission standards in the nation as well as a vehicle inspection (smog check) program that result in most cars producing very little pollution.

(c) A small percentage of automobiles cause a disproportionate and significant amount of the air pollution in California.

(d) These gross polluters are primarily vehicles in which the emission control equipment has been disconnected or which are very poorly maintained.

(e) New technologies, such as remote sensing, can identify gross polluters on the roads, enabling law enforcement authorities to stop, inspect, and cite vehicles with disconnected emission control equipment, and can promote the development of incentives for the repair of other high-emitting vehicles.

(f) Requiring owners to reconnect emission control equipment and developing incentives for needed maintenance on high-emitting vehicles may be cost-effective methods to reduce emissions and help achieve air quality standards in many districts.

44081. (a) (1) The department, in cooperation with the state board, shall institute procedures for auditing the emissions of vehicles while actually being driven on the streets and highways of the state. The department may undertake those procedures itself or seek a qualified vendor of these services. The primary object of the procedures shall be the detection of gross polluters. The procedures shall consist of techniques and technologies determined to be effective for that purpose by the department, including, but not limited to, remote sensing. The procedures may include pullovers for roadside emissions testing and inspection. The department shall consider the recommendations of the review committee based on the outcome of the pilot demonstration program conducted pursuant to Section 44081.6.

(2) The department may additionally use other methods to identify gross polluting vehicles for out-of-cycle testing and repair.

(b) The department shall, by regulation, establish a program for the out-of-cycle testing and repair of motor vehicles found, through roadside auditing, to be emitting at levels that exceed specified standards. The program shall include all of the following elements:

(1) Emission standards, and test and inspection procedures and regulations, adopted in coordination with the state board, applicable to vehicles tested during roadside auditing. Emission standards for issuance of a notice of noncompliance to a gross polluter shall be designed to maximize the identification of vehicles with substantial excess emissions.

(2) Procedures for issuing notices of noncompliance to owners of gross polluters, either at the time of the roadside audit, or subsequently by certified mail, or by obtaining a certificate of mailing as evidence of service, using technologies for recording license plate numbers. The notice of noncompliance shall provide that, unless the vehicle is brought to a designated test-only facility or a test-and-repair station that is both licensed and certified pursuant to Sections 44014 and 44014.2, for emissions testing within 30 days, the owner is required to pay an administrative fee of five hundred dollars ($500) to be collected by the Department of Motor Vehicles at the next annual registration renewal or the next change of ownership of the vehicle, whichever occurs first. Commencing on the 31st day after issuance of the notice of noncompliance, the fee shall accrue at the rate of five dollars ($5) per day up to the five hundred dollars ($500) maximum.

(3) Procedures for the testing of vehicles identified as gross polluters by a designated test-only facility, or a test-and-repair station that is both licensed and certified pursuant to Sections 44014 and 44014.2, to confirm that the vehicle exceeds the minimum emission standard for gross polluters set by the department.

(4) Procedures requiring owners of vehicles confirmed as gross polluters to have the vehicle repaired, resubmitted for testing, and obtain a certificate of compliance from a designated test-only facility, or a test-and-repair station that is both licensed and certified pursuant to Sections 44014 and 44014.2, or removed from service as attested by a certificate of nonoperation from the Department of Motor Vehicles within 30 days or be required to pay an administrative fee of not more than five hundred dollars ($500), to be collected by the Department of Motor Vehicles at the next annual registration renewal or the next change of ownership, whichever occurs first. Commencing on the 31st day after issuance of the notice of noncompliance, the fee shall accrue at the rate of five dollars ($5) per day up to the five hundred dollar ($500) maximum. The registration of a vehicle shall not be issued or renewed if that vehicle has been identified as a gross polluter and has not been issued a certificate of compliance. Except as provided in subdivision (b) of Section 9250.18 of the Vehicle Code, any revenues collected by the Department of Motor Vehicles pursuant to this subdivision and Section 9250.18 of the Vehicle Code shall be deposited in the Vehicle Inspection and Repair Fund. If the ownership of the vehicle is transferred, the administrative fee provided for in this subdivision shall be waived if the vehicle is brought into compliance.

(5) A procedure for notifying the Department of Motor Vehicles of notices of noncompliance issued, so that the Department of Motor Vehicles may provide effective collection of the administrative fee. The Department of Motor Vehicles shall cooperate with, and implement the requirements of, the department in that regard.

(c) The department may adopt any other regulations necessary for the effective implementation of this section, as determined by the department.

(d) Upon the request of the department, the Department of the California Highway Patrol shall provide assistance in conducting roadside auditing, to consist of (1) the stopping of vehicles and traffic management, and (2) the issuance of notices of noncompliance to gross polluters. The department shall reimburse the Department of the California Highway Patrol for its costs of providing those services. The Department of Transportation and affected local agencies shall provide necessary assistance and cooperation to the department in the operation of the program.

(e) There shall be no repair cost limit imposed pursuant to Section 44017 for any repairs that are required to be made under the roadside auditing program, except as provided in Section 44017.

(f) This section does not apply to vehicles operating under a valid repair cost waiver or economic hardship extension issued pursuant to Section 44015.

(Amended Sec. 7, Ch. 1001, Stats. 2002. Effective January 1, 2003.)

44084. In addition to other programs authorized in this article, a district may, on or after March 1, 1993, establish programs to identify gross polluters and other high-emitting vehicles whose emissions could be reduced by repair, using remote sensors or other methods, and to provide financial incentives to encourage the repair or scrapping of these vehicles as a method of reducing mobile source emissions for the purposes of Section 40914. The programs authorized by this section are not intended to impose additional emission reduction requirements, but instead are intended to provide more cost-effective alternative methods to meet existing requirements.

Article 9. Repair Or Removal Of High Polluters

(Added Ch. 28, Stats. 1994. Effective March 30, 1994.)

44090. For purposes of this article, the following terms have the following meaning:

(a) "Account" means the High Polluter Repair or Removal Account created pursuant to subdivision (a) Section 44091.

(b) "High polluter" means a high-emission motor vehicle including, but not limited to, a gross polluter.

44091. (a) The High Polluter Repair or Removal Account is hereby created in the Vehicle Inspection and Repair Fund. All money deposited in the account pursuant to this articleshall be available, upon appropriation by the Legislature, to the department and the state board to establish and implement a program for the repair or replacement of high polluters pursuant to Section 44062.1 and Article 10 (commencing with Section 44100).

(b) The department may accept donations or grants of funds from any person for purposes of the program and shall deposit that money in the account. Donations, grants, or other commitments of money to the account may be dedicated for specific purposes consistent with the uses of the account, including, but not limited to, purchasing higher emitting vehicles for the purpose of achieving the emission reductions required by the M-1 strategy of the 1994 State Implementation Plan (SIP).

(c) The funds which are available in the account in any fiscal year for a particular area that is subject to an inspection and maintenance program shall be distributed to reflect the number of vehicles registered in that area to the total number of vehicles registered in areas that are subject to inspection and maintenance programs. That percentage shall be the percentage of the total funds allocated to the program in that fiscal year which are available for that particular area.

(d) It is the intent of the Legislature that a prudent amount be determined to retain as a reserve in the Vehicle Inspection and Repair Fund, and that any moneys in the fund above that amount be transferred to the High Polluter Repair or Removal Account. It is also the intent of the Legislature that those transferred moneys be available, upon appropriation by the Legislature, for expenditure by the department to support the programs described in this section.

(e) During any fiscal year, the money in the account shall be available, upon appropriation by the Legislature, for the following purposes:

(1) Assistance in the repair of high polluters pursuant to the program established pursuant to Section 44062.1.

(2) Voluntary accelerated retirement of high polluters.

(3) Rulemaking, vehicle testing, and other technical work required to implement and administer the repair assistance program established pursuant to Section 44062.1 and the program described in Article 10 (commencing with Section 44100).

(f) An amount of one million dollars ($1,000,000) annually for the 1997–98 fiscal year and the 1998–99 fiscal year shall be made available from the account for a program to evaluate the emission reduction effectiveness of the M-1 strategy of the 1994 SIP.

(g) All remaining amounts in the account shall be available to the program of repair assistance established pursuant to Section 44062.1.

(h) In no case shall the funding available in any subsequent fiscal year to the department for repairing or removing high-emitting vehicles under the inspection and maintenance program be less than the amount made available from the Vehicle Inspection and Repair Fund for that purpose in the 1995–96 fiscal year.

(Amended Sec. 9, Ch. 230, Stats. 2004. Effective August 16, 2004.)

44091.1. Commencing January 1, 2005, the fee specified in paragraph (1) of subdivision (d) of Section 44060 shall be twelve dollars ($12). The revenues from that fee shall be allocated as follows:

(a) The revenues generated by six dollars ($6) of the fee shall be deposited in the Air Pollution Control Fund, and shall be available for expenditure, upon appropriation by the Legislature, to fund the Carl Moyer Memorial Air Quality Standards Attainment Program (Chapter 9 (commencing with Section 44275) to the extent that the state board or a participating district determines the moneys are expended to mitigate or remediate the harm caused by the type of motor vehicle on which the fee is imposed.

(b) (1) Except as provided for in paragraph (2), of the revenue generated by the remaining six dollars ($6) of the fee, four dollars ($4) shall be deposited in the account created by Section 44091, while the revenue generated by the remaining two dollars ($2) shall be deposited in the Vehicle Inspection and Repair Fund.

(2) All revenue generated by the remaining six dollars ($6) of the fee described in this subdivision that is imposed at first registration of a motor vehicle and that is exempted under paragraph (4) of subdivision (a) of Section 44011 shall be deposited in the account created by Section 44091.

(Amended Sec. 1, Ch. 703, Stats. 2004. Effective January 1, 2005.)

44094. (a) Participation in the high polluter repair or removal program specified in this article and Article 10 (commencing with Section 44100) shall be voluntary and shall be available to the owners of high polluters that are registered in an area that is subject to an inspection and maintenance program, have been registered for at least 24 months in the district where the credits are to be applied and, are presently operational, and meet other criteria, as determined by the department.

(b) The program shall provide for both of the following:

(1) As to the repair of a high polluter, payment to the owner of up to 80 percent of the total cost of repair, as determined by the department, but the payment shall not exceed four hundred fifty dollars ($450).

(2) As to the removal of a high polluter, the program shall be subject to Article 10 (commencing with Section 44100).

(c) The department may specify the amount of money that may be paid to an owner of a high-polluting motor vehicle who voluntarily retires the vehicle. The amount paid by the department shall be based on the cost effectiveness and the air quality benefit of retiring the vehicle, as determined by the department.

(d) The department may authorize participation in the program based on a reasonable estimate of the future revenues that will be available to the program.

(Amended Sec. 18, Ch. 67, Stats. 1999. Effective July 6, 1999.)

Article 10. Accelerated Light-Duty Vehicle Retirement Program

(Added Sec. 7, Ch. 929, Stats. 1995. Effective January 1, 1996.)

44101. Not later than December 31, 1998, the state board shall adopt, by regulation, a statewide program to commence in 1999 that does all of the following:

(a) Provides for the creation, exchange, use, and retirement of light-duty vehicle mobile source emission reduction credits. The credits shall be fungible and exchangeable in the marketplace, and shall reflect the actual emissions of the vehicles that are retired or otherwise disposed of, by measurement, appropriate sampling, or correlations developed from appropriate sampling. The numerical value of credits may be constant over a defined lifetime, or may decline with age measured from the time of origination of the credits. In all cases, the numerical value of the credits shall reflect the useful life expectancies and the projected in-use emissions of the retired vehicles in a manner consistent with the assumptions used in

determining the emissions inventory. The credits shall be fully recognized by the United States Environmental Protection Agency, the state board, and the districts.

(b) Sets out the criteria for retiring or otherwise disposing of high-emitting vehicles purchased for this program.

(c) Authorizes the issuance of those credits to private entities that purchase and properly retire high-emitting vehicles.

(d) Authorizes the resale of those credits to public or private entities to be used to achieve the emission reduction requirements of the 1994 state implementation plan, meet the requirements of the inspection and maintenance program, satisfy compliance with other emission reduction mandates, as determined by the district or the state board, create local growth allowances, or satisfy new or modified source emission offset requirements. Nothing in this article limits a district's authority to apply emission discount factors pursuant to district rules that regulate emissions banks, trades, or offsets.

(e) Provides for the retirement of those credits when used.

(f) Includes accounting procedures to credit emissions reductions achieved through vehicle scrappage to the M-1 strategy of the 1994 SIP and the inspection and maintenance program.

(g) Contains a program plan pursuant to Section 44104.5.

(h) Satisfies the attributes described in subdivision (e) of Section 44100.

(Amended Sec. 10, Ch. 802, Stats. 1997. Effective January 1, 1998.)

44102. (a) The state board, the Department of Motor Vehicles, and the department shall harmonize the requirements and implementation of this program with the motor vehicle inspection program and other programs contained in this chapter, particularly the provisions relating to gross polluters in Article 8 (commencing with Section 44080) and the repair or removal of high polluters in Article 9 (commencing with Section 44090).

(b) Insofar as practicable, these programs shall be seamless to the participants and the public.

(Added Sec. 7, Ch. 929, Stats. 1995. Effective January 1, 1996.)

44103. Notwithstanding any other provision of law, the program shall also do both of the following:

(a) Authorize the Department of Motor Vehicles, at the request of persons engaged in the purchase and retirement of vehicles under the program, to send notices to vehicle owners who are candidates for the sale of vehicles under the program describing the opportunity to participate in the program. The Department of Motor Vehicles may recover all costs of those notifications from the requesting party or parties.

(b) Allow the issuance of nonrevivable junk certificates for vehicles retired under the program, which shall allow program vehicles to be scrapped only for parts, except those parts identified pursuant to subdivision (a) of Section 44120.

(Amended Sec. 12, Ch. 1088, Stats. 1996. Effective September 30, 1996.)

44120. Vehicle disposal under the program shall be consistent with appropriate state board guidance and provisions of the Vehicle Code dealing with vehicle disposal and parts reuse, and shall do both of the following:

(a) Allow for trading, sale, and resale of the vehicles between licensed auto dismantlers or other appropriate parties to maximize the salvage value of the vehicles through the recycling, sales, and use of parts of the vehicles, consistent with the Vehicle Code and appropriate state board guidelines.

(b) Set aside and resell to the public any vehicles with special collector interest. No emission reduction credit shall be generated for vehicles that are resold to the public. Vehicles acquired for their collector interest shall be properly repaired to meet minimum established vehicle emission standards before reregistration, unless the vehicle is sold with a nonrepairable vehicle certificate or a nonrevivable junk certificate.

(Added Sec. 7, Ch. 929, Stats. 1995. Effective January 1, 1996.)

Direct Import Used Motor Vehicles

44200. For purposes of this chapter, "used direct import vehicle" means any 1975 or later model-year direct import vehicle not required to be certified as a new direct import vehicle pursuant to this part.

For purposes of this section, the age of a motor vehicle shall be determined by the following, in descending order of preference:

(a) From the first calendar day of the model year as indicated in the vehicle identification number.

(b) From the last calendar day of the month the vehicle was delivered by the manufacturer as shown on the foreign title document.

(c) From January 1 of the same calendar year as the model year shown on the foreign title document.

(d) From the last calendar day of the month the foreign title document was issued.

(Amended Ch. 859, Stats. 1989. Effective January 1, 1990.)

44201. The state board shall adopt, by regulation, a certification program for used direct import vehicles. The state board shall issue a certificate of conformance to each used direct import vehicle which meets the requirements of this program.

(Amended Ch. 859, Stats. 1989. Effective January 1, 1990.)

44202. A used direct import vehicle which was not registered in this state prior to the adoption of regulations adopted pursuant to Section 44201, may not be registered in this state unless it has received a certificate of conformance from the state board, except as provided in Section 44210.

(Amended Ch. 859, Stats. 1989. Effective January 1, 1990.)

44209. Any person who falsifies any test record or report which has been submitted to any other person, the department, or the state board pursuant to this chapter is subs collected from motor vehicles registered within each district.

(b) The Department of Motor Vehicles may annually expend not more than the following percentages of the fees collected pursuant to Section 44227 on administrative costs:

(1) During the first year after the operative date of this chapter, not more than 5 percent of the fees collected may be used for administrative costs.

(2) During the second year after the operative date of this chapter, not more than 3 percent of the fees collected may be used for administrative costs.

(3) During any year subsequent to the second year after the operative date of this chapter, not more than 1 percent of the fees collected may be used for administrative costs.

44210. The requirements of Section 44202 do not apply to any motor vehicle having a certificate of conformity issued by the federal Environmental Protection Agency pursuant to the federal Clean Air Act (42 U.S.C. Section 7401, et seq.) and originally registered in another state by a person who was a resident of that state for at least one year prior to the original registration, who subsequently establishes residence n this state and who, upon registration of the vehicle in California, provides evidence satisfactory to the Department of Motor Vehicles of that previous residence and registration.

(Added Ch. 1138, Stats. 1985. Effective January 1, 1986.)

District Fees to Implement the California Clean Air Act

44220. The Legislature hereby finds and declares as follows:

(a) This chapter is intended to ensure that any county air pollution control district, or unified or regional air pollution control district, may, upon adoption of a resolution by the district governing board, exercise fee authority similar to that provided the south coast district pursuant to Section 9250.11 of the Vehicle Code and the Sacramento district pursuant to Section 41081, in order to ensure that districts, and, in the south coast district, other implementing agencies, have the necessary funds to carry out their responsibilities for implementing the California Clean Air Act of 1988 (Chapter 1568 of the Statutes of 1988).

(b) The revenues from the fees collected pursuant to this chapter shall be used solely to reduce air pollution from motor vehicles and for related planning, monitoring, enforcement, and technical studies necessary for the implementation of the California Clean Air Act of 1988.

(Amended Sec. 76, Ch. 124, Stats. 1996. Effective January 1, 1997.)

44223. (a) In addition to any other fees specified in this code, the Vehicle Code and the Revenue and Taxation Code, a district, except the Sacrament district, which has been designated by the state board as a state nonattainment area for any pollutant emitted by motor vehicles may levy a fee of up to two dollars ($2) on motor vehicles registered within the district. A district may impose the fee only if the district board adopts a resolution providing for both the fee and a corresponding program for the monitoring, enforcement, and technical studies necessary for the implementation of, the California Clean Air Act of 1988 (Chapter 1568 of the Statutes of 1988).

(b) In districts with nonelected officials on their boards, a resolution adopted pursuant to subdivision (a) shall be approved by both a majority of the board and a majority of the board members who are elected officials.

(c) A fee imposed pursuant to this section shall become effective on either April 1 or October 1, as provided in the resolution adopted by the board pursuant to subdivision (a).

(Amended Ch. 427, Stats. 1992. Effective January 1, 1993.)

44225. A district may increase the fee established under Section 44223 to up to six dollars ($6). A district may increase the fee only if the following conditions are met:

(a) A resolution providing for both the fee increase and a corresponding program for expenditure of the increased fees for the reduction of air pollution from motor vehicles pursuant to, and for related planning, monitoring, enforcement, and technical studies necessary for the implementation of, the California Clean Air Act of 1988 is adopted and approved by the governing board of the district. .

(b) In districts with nonelected officials on their governing boards, the resolution shall be adopted and approved by both a majority of the governing board and a majority of the board members who are elected officials.

(c) An increase in fees established pursuant to this section shall become effective on either April 1 or October 1, as provided in the resolution adopted by the board pursuant to subdivision (a).

(d) This section shall remain in effect only until January 1, 2015, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2015, deletes or extends that date.

(Amended and repealed Sec. 3, Ch. 707, Stats. 2004. Effective January 1, 2005. Repeal operative January 1, 2015.)

NOTE: The preceding section is repealed January 1, 2015, at which time the following section becomes operative.

44225. On and after April 1, 1992, a district may increase the fee established under Section 44223 to up to four dollars ($4). A district may increase the fee only if the following conditions are met:

(a) A resolution providing for both the fee increase and a corresponding program for expenditure of the increased fees for the reduction of air pollution from motor vehicles pursuant to, and for related planning, monitoring, enforcement, and technical studies necessary for the implementation of, the California Clean Air Act of 1988 is adopted and approved by the governing board of the district.

(b) In districts with nonelected officials on their governing boards, the resolution shall be adopted and approved by both a majority of the governing board and a majority of the board members who are elected officials.

(c) An increase in fees established pursuant to this section shall become effective on either April 1 or October 1, as provided in the resolution adopted by the board pursuant to subdivision (a).

(d) This section shall become operative on January 1, 2015.

(Added Sec. 3.5, Ch. 707, Stats. 2004. Effective January 1, 2005. Operative January 1, 2015.)

44227. Upon request of a district, the Department of Motor Vehicles shall collect fees established pursuant to Sections 44223 and 44225 upon renewal of the registration of any motor vehicle subject to this part and registered in the district, except those vehicles which are expressly exempted under the Vehicle Code from the payment of registration fees.

44229. (a) After deducting all administrative costs it incurs through collection of fees pursuant to Section 44227, the Department of Motor Vehicles shall distribute the revenues to districts, which shall use the revenues resulting from the first four dollars ($4) of each fee imposed to reduce air pollution from motor vehicles and to carry out related planning, monitoring, enforcement, and technical studies necessary for implementation of the California Clean Air Act of 1988. Fees collected by the Department of Motor Vehicles pursuant to this chapter shall be distributed to districts based upon the amount of fees collected from motor vehicles registered within each district.

(b) Notwithstanding the provisions of Section 44241 and Section 44243, a district shall use the revenues resulting from the next two dollars ($2) of each fee imposed pursuant to Section 44227 to implement the following programs that the district determines remediate air pollution harms created by motor vehicles on which the surcharge is imposed:

(1) Projects eligible for grants under the Carl Moyer Memorial Air Quality Standards Attainment Program (Chapter 9 (commencing with Section 44275) of Part 5).

(2) The new purchase, retrofit, repower, or add-on equipment for previously unregulated agricultural sources of air pollution, as defined in Section 39011.5, for a minimum of three years from the date of adoption of an applicable rule or standard, or until the compliance date of that rule or standard, whichever is later, if the state board has determined that the rule or standard complies with Sections 40913, 40914, and 41503.1, after which period of time, a new purchase, retrofit, repower, or add-on of equipment shall not be funded pursuant to this chapter. The districts shall follow any guidelines developed under subdivision (a) of Section 44287 for awarding grants under this program.

(3) The new purchase of schoolbuses pursuant to the Lower-Emission School Bus Program adopted by the state board.

(4) An accelerated vehicle retirement or repair program that is adopted by the state board pursuant to authority granted hereafter by the Legislature by statute.

(c) The Department of Motor Vehicles may annually expend not more than the following percentages of the fees collected pursuant to Section 44227 on administrative costs:

(1) During the first year after the operative date of this chapter, not more than 5 percent of the fees collected may be used for administrative costs.

(2) During the second year after the operative date of this chapter, not more than 3 percent of the fees collected may be used for administrative costs.

(3) During any year subsequent to the second year after the operative date of this chapter, not more than 1 percent of the fees collected may be used for administrative costs.

(d) No project funded by the program shall be used for credit under any state or federal emissions averaging, banking, or trading program. No emission reduction generated by the program shall be used as marketable emission reduction credits or to offset any emission reduction obligation of any person or entity. Projects involving new engines that would otherwise generate marketable credits under state or federal averaging, banking, and trading programs shall include transfer of credits to the engine end user and retirement of those credits toward reducing air emissions in order to quality for funding under the program. A purchase of a low-emision vehicle or of equipment pursuant to a corporate or a controlling board's policy, but not otherwise required by law, shall generate surplus emissions reductions and may be funded by the program.

(e) This section shall remain in effect only until January 1, 2015, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2015, deletes or extends that date.

(Amended and repealed Sec. 4, Ch. 707, Stats. 2004. Effective January 1, 2005. Repeal operative January 1, 2015.)

NOTE: The preceding section is repealed January 1, 2015, at which time the following section becomes operative.

44229. (a) After deducting all administrative costs it incurs through collection of fees pursuant to Section 44227, the Department of Motor Vehicles shall distribute the revenues to districts which shall use the fees to reduce air pollution from motor vehicles and to carry out related planning, monitoring, enforcement, and technical studies necessary for implementation of the California Clean Air Act of 1988. Fees collected by the Department of Motor Vehicles pursuant to this chapter shall be distributed to districts based upon the amount of fees collected from motor vehicles registered within each district.

(b) The Department of Motor Vehicles may annually expend not more than the following percentages of the fees collected pursuant to Section 44227 on administrative costs:

(1) During the first year after the operative date of this chapter, not more than 5 percent of the fees collected may be used for administrative costs.

(2) During the second year after the operative date of this chapter, not more than 3 percent of the fees collected may be used for administrative costs.

(3) During any year subsequent to the second year after the operative date of this chapter, not more than 1 percent of the fees collected may be used for administrative costs.

(c) This section shall become operative on January 1, 2015.

(Added Sec. 4.5, Ch. 707, Stats. 2004. Effective January 1, 2005. Operative January 1, 2015.)

44231. After consulting with the Department of Motor Vehicles on the feasibility thereof, a district board may exempt from all or part of the fee any category of low-emission motor vehicle.

44241. (a) Fee revenues generated under this chapter in the bay district shall be subvened to the bay district by the Department of Motor Vehicles after deducting its administrative costs pursuant to Section 44229.

(b) Fee revenues generated under this chapter shall be allocated by the bay district to implement the following mobile source and transportation control projects and programs that are included in the plan adopted pursuant to Sections 40233, 40717, and 40919:

(1) The implementation of ridesharing programs.

(2) The purchase or lease of clean fuel buses for school districts and transit operators.

(3) The provision of local feeder bus or shuttle service to rail and ferry stations and to airports.

(4) Implementation and maintenance of local arterial traffic management, including, but not limited to, signal timing, transit signal preemption, bus stop relocation and "smart streets."

(5) Implementation of rail-bus integration and regional transit information systems.

(6) Implementation of demonstration projects in telecommuting and in congestion pricing of highways, bridges, and public transit. No funds expended pursuant to this paragraph for telecommuting projects shall be used for the purchase of personal computing equipment for an individual's home use.

(7) ***Implementation of vehicle-based projects to reduce mobile source emissions, including, but not limited to, engine repowers, engine retrofits, fleet modernization, alternative fuels, and advanced technology demonstrations.***

(8) Implementation of a smoking vehicles program.

(9) Implementation of an automobile buy-back scrappage program operated by a governmental agency.

(10) Implementation of bicycle facility improvement projects that are included in an adopted countywide bicycle plan or congestion management program.

(11) The design and construction by local public agencies of physical improvements that support development projects that achieve motor vehicle emission reductions. The projects and the physical improvements shall be identified in an approved area-specific plan, redevelopment plan, general plan, or other similar plan.

(c) ***(1)*** Fee revenue generated under this chapter shall be allocated by the bay district for projects and programs specified in subdivision (b) to cities, counties, the Metropolitan Transportation Commission, transit districts, or any other public agency responsible for implementing one or more of the specified projects or programs. ***Fee revenue generated under this chapter may also be allocated by the bay district for projects and programs specified in paragraph (7) of subdivision (b) to entities that include, but are not limited to, public agencies, consistent with applicable policies adopted by the governing board of the bay district. Those policies shall include, but are not limited to, requirements for cost-sharing for projects subject to the policies.*** Fee revenues shall not be used for any planning activities that are not directly related to the implementation of a specific project or program.

(2) The bay district shall adopt cost-effectiveness criteria for fee revenue generated under this chapter that projects and programs are required to meet. The cost-effectiveness criteria shall maximize emissions reductions and public health benefits.

(d) Not less than 40 percent of fee revenues shall be allocated to the entity or entities designated pursuant to subdivision (e) for projects and programs in each county within the bay district based upon the county's proportionate share of fee-paid vehicle registration.

(e) In each county, one or more entities may be designated as the overall program manager for the county by resolutions adopted by the county board of supervisors and the city councils of a majority of the cities representing a majority of the population in the incorporated area of the county. The resolution shall specify the terms and conditions for the expenditure of funds. The entities so designated shall be allocated the funds pursuant to subdivision (d) in accordance with the terms and conditions of the resolution.

(f) Any county, or entity designated pursuant to subdivision (e), that receives funds pursuant to this section, at least once a year, shall hold one or more public meetings for the purpose of adopting criteria for expenditure of the funds and to review the expenditure of revenues received pursuant to this section by any designated entity. If any county or entity designated pursuant to subdivision (e) that receives funds pursuant to this section has not allocated all of those funds within six months of the date of the formal approval of its expenditure plan by the bay district, the bay district shall allocate the unallocated funds in accordance with subdivision (c).

(Amended Sec. 1, Ch. 568, Stats. 2006. Effective January 1, 2006.)

44243. Fee revenues generated under this chapter in the south coast district shall be subvened to the south coast district by the Department of Motor Vehicles, after deducting its administrative costs pursuant to Section 44229, for expenditure in the following manner:

(a) (1) Thirty cents ($0.30) of every dollar subvened shall be used by the south coast district for programs to reduce air pollution from motor vehicles and to carry out related planning, monitoring, enforcement, and technical studies which are authorized by, or necessary to implement, the Clean Air Act Amendments of 1990 (P.L. 101-549), the California Clean Air Act of 1988, or the plan prepared pursuant to Article 5 (commencing with Section 40460) of Chapter 5.5 of Part 3.

(2) Funds allocated pursuant to paragraph (1) shall also be used to provide technical assistance to cities receiving funds pursuant to subdivision (b). That technical assistance shall include, but not be limited to, workshops and direct assistance to individual cities on how to develop and implement programs to reduce air pollution from motor vehicles.

(b) (1) Forty cents ($0.40) of every dollar subvened shall be distributed by the district to cities and counties located in the south coast district, based upon their prorated share of population, to be used to implement programs to reduce air pollution from motor vehicles which are authorized by, or necessary to implement, the Clean Air Act Amendments of 1990, the California Clean Air Act of 1988, or the plan prepared pursuant to Article 5 (commencing with Section 40460) of Chapter 5.5 of Part 3. No city or county may receive funds pursuant to this subdivision unless, on or before April 1, 1992, or, for a newly incorporated city, within 90 days of the date of incorporation, the city or county has adopted and transmitted to the south coast district an ordinance which does all of the following:

(A) Expresses support for the adoption of motor vehicle registration fees to be used to reduce air pollution from motor vehicles pursuant to the Clean Air Act Amendments of 1990, the California Clean Air Act of 1988, or the plan prepared pursuant to Article 5 (commencing with Section 40460) of Chapter 5.5 of Part 3.

(B) Expressly requires all fee revenues distributed to the city or county pursuant to this subdivision or subdivision (c) to be spent to reduce air pollution from motor vehicles pursuant to the Clean Air Act Amendments of 1990, the California Clean Air Act of 1988, or the plan prepared pursuant to Article 5 (commencing with Section 40460) of Chapter 5.5 of Part 3.

(C) Establishes an air quality improvement trust fund into which all fee revenues distributed to the city or county shall be deposited, and out of which expenditures shall be made to reduce air pollution from motor vehicles pursuant to the Clean Air Act Amendments of 1990, the California Clean Air Act of 1988, or the plan prepared pursuant to Article 5 (commencing with Section 40460) of Chapter 5.5 of Part 3.

(2) If a city or county fails to adopt an ordinance pursuant to this subdivision, the fee revenues which would be distributed to that city or county shall instead be distributed to the other cities and counties within the south coast district which have adopted an ordinance pursuant to this subdivision, based upon their prorated share of registered motor vehicles.

(c) Thirty cents ($0.30) of every dollar subvened shall be deposited by the district in an account to be used, pursuant to Section 44244, to provide grants to fund projects for the exclusive purpose of reducing air pollution from motor vehicles that are authorized by, or necessary to implement, the Clean Air Act Amendments of 1990, the California Clean Air Act of 1988, or the plan prepared pursuant to Article 5 (commencing with Section 40460) of Chapter 5.5 of Part 3.

(Amended Sec. 1, Ch. 812, Stats. 1995. Effective January 1, 1996.)

44247. Local agencies imposing vehicle registration fees for air pollution programs pursuant to this chapter shall report to the state board on their use of the fees and the results of the programs funded by the fees and shall cooperate with the state board in the preparation of its report. These reports shall be submitted according to a schedule adopted by the state board to ensure compliance with the reporting requirements of Section 44245.

(Added Ch. 1705, Stats. 1990. Effective January 1, 1991.)

Chapter 8. Smog Index Numbers

44254. (a) The state board shall publish the smog index numbers in a form that is convenient for use by the Department of Motor Vehicles, the bureau, vehicle owners, manufacturers, dealers, and consumers shopping for a new or used motor vehicle of a particular type.

(b) The state board, in consultation with the Environmental Protection Agency, shall adopt regulations specifying a form of decal to be affixed by manufacturers to new motor vehicles pursuant to Section 43200.5 to inform purchasers of the smog index for the vehicle, a smog index chart listing vehicle model years and the corresponding smog index for that model year to be affixed by motor vehicles dealers to used motor vehicles pursuant to subdivision (c) of Section 43705, and information to inform purchasers of the significance of the smog index and smog index chart.

(c) The state board, in consultation with the Department of Motor Vehicles, shall specify a form of notice to be provided by the Department of Motor Vehicles to each owner of a motor vehicle registered in this state, informing the owner of the smog index for the vehicle and the significance of the smog index.

Reporting Disorders Characterized by Lapses of Consciousness

103900. (a) Every physician and surgeon shall report immediately to the local health officer in writing, the name, date of birth, and address of every patient at least 14 years of age or older whom the physician and surgeon has diagnosed as having a case of a disorder characterized by lapses of consciousness. However, if a physician and surgeon reasonably and in good faith believes that the reporting of a patient will serve the public interest, he or she may report a patient's condition even if it may not be required under the department's definition of disorders characterized by lapses of consciousness pursuant to subdivision (d).

(b) The local health officer shall report in writing to the Department of Motor Vehicles the name, age, and address, of every person reported to it as a case of a disorder characterized by lapses of consciousness.

(c) These reports shall be for the information of the Department of Motor Vehicles in enforcing the Vehicle Code, and shall be kept confidential and used solely for the purpose of determining the eligibility of any person to operate a motor vehicle on the highways of this state.

(d) The department, in cooperation with the Department of Motor Vehicles, shall define disorders characterized by lapses of consciousness based upon existing clinical standards for that definition for purposes of this section and shall include Alzheimer's disease and those related disorders that are severe enough to be likely to impair a person's ability to operate a motor vehicle in the definition. The department, in cooperation with the Department of Motor Vehicles, shall list those circumstances that shall not require reporting pursuant to subdivision (a) because the patient is unable to ever operate a motor vehicle or is otherwise unlikely to represent a danger that requires reporting. The department shall consult with professional medical organizations whose members have specific expertise in the diagnosis and treatment of those disorders in the development of the definition of what constitutes a disorder characterized by lapses of consciousness as well as definitions of functional severity to guide reporting so that diagnosed cases reported pursuant to this section are only those where there is reason to believe that the patients' conditions are likely to impair their ability to operate a motor vehicle. The department shall complete the definition on or before January 1, 1992.

(e) The Department of Motor Vehicles shall, in consultation with the professional medical organizations specified in subdivision (d), develop guidelines designed to enhance the monitoring of patients affected with disorders specified in this section in order to assist with the patients' compliance with restrictions imposed by the Department of Motor Vehicles on the patients' licenses to operate a motor vehicle. The guidelines shall be completed on or before January 1, 1992.

(f) A physician and surgeon who reports a patent diagnosed as a case of a disorder characterized by lapses of consciousness pursuant to this section shall not be civilly or criminally liable to any patient for making any report required or authorized by this section.

113925. (a) Enforcement officers are charged with the enforcement of this chapter and all regulations adopted pursuant to it.

(b) (1) For purposes of enforcement of this chapter, any authorized enforcement officer may, during the facility's hours of operation and other reasonable times, enter, inspect, issue citations to, and secure any sample, photographs, or other evidence from, any of the following:

(A) Any food facility.

(B) Any facility suspected of being a food facility.

(C) Any vehicle transporting food to or from a retail facility, when the vehicle is stationary at an agricultural inspection station, a border crossing, or at any food facility under the jurisdiction of the enforcement agency, or upon the request of an incident commander.

(2) If a food facility is operating under an HACCP plan, as defined in Section 113797 and adopted pursuant to Section 114055 or 114056, the enforcement officer may, for the purpose of determining compliance with the plan, secure as evidence any documents, or copies of documents, relating to the facility"s adherence to the HACCP plan.

(c) It is a violation of this chapter for any person to refuse to permit entry or inspection, the taking of samples or other evidence, or access to copy any record as authorized by this chapter, or to conceal any samples or evidence, or withhold evidence concerning them.

(d) A written report of the inspection shall be made and a copy shall be supplied or mailed to the owner, manager, or operator of the food facility.

(Amended Sec. 3, Ch. 532, Stats. 2002. Effective January 1, 2003.)

113995. (a) Except as otherwise provided in this section, all potentially hazardous food held at a retail food facility, or being transported to or from a retail food facility for a period of longer than 30 minutes, excluding raw shell eggs, shall be held at or below 7 degrees Celsius (45 degrees Fahrenheit) or shall be kept at or above 60 degrees Celsius (140 degrees Fahrenheit) at all times. Storage and display of raw shell eggs shall be governed by Sections 113997 and 114351.

(b) A retail food facility may accept potentially hazardous food at or below 7 degrees Celsius (45 degrees Fahrenheit), per subdivision (a), if the potentially hazardous food is cooled within four hours of receipt to a temperature at or below 5 degrees Celsius (41 degrees Fahrenheit).

(c) (1) Commencing January 1, 1997, all potentially hazardous food shall be held at or below 5 degrees Celsius (41 degrees Fahrenheit) or shall be kept at or above 60 degrees Celsius (140 degrees Fahrenheit) at all times, except for the following:

(A) Unshucked live molluscan shellfish shall not be stored or displayed at a temperature above 7 degrees Celsius (45 degrees Fahrenheit).

(B) Frozen potentially hazardous foods shall be stored and displayed in their frozen state unless being thawed in accordance with Section 114085.

(C) Potentially hazardous foods held for dispensing in serving lines and salad bars during periods not to exceed 12 hours in any 24-hour period or held in vending machines may not exceed 7 degrees Celsius (45 degrees Fahrenheit). For purposes of this subdivision, a display case shall not be deemed to be a serving line.

(D) Pasteurized milk and pasteurized milk products in original, sealed containers shall not be held at a temperature above 7 degrees Celsius (45 degrees Fahrenheit).

(2) Nothing in this subdivision shall be deemed to require any person to replace or modify any existing refrigeration equipment owned by that person on January 1, 1997, until January 1, 2002. For purposes of this paragraph, neither a simple adjustment of temperature controls nor a needed repair shall constitute a modification.

(d) Potentially hazardous foods may be held at temperatures other than those specified in this section when being heated or cooled, or when the food facility operates pursuant to a HACCP plan adopted pursuant to Section 114055 or 114056. If it is necessary to remove potentially hazardous food from specified holding temperatures to facilitate preparations, this preparation shall be diligent, and in no case shall the period of an ambient-temperature preparation step exceed two hours without a return to the specified holding temperatures. The total ambient-temperature holding of a potentially hazardous food for the purposes of preparation shall not exceed a total cumulative time of four hours. For purposes of this subdivision, preparation shall be deemed to be "diligent" with respect to raw shell eggs held for the preparation of egg-containing foods that

are prepared to the specific order of the customer as long as the total ambient-temperature holding of these eggs does not exceed a total time of four hours.

(e) A thermometer accurate to plus or minus 1 degree Celsius (2 degrees Fahrenheit) shall be provided for each refrigeration unit, shall be located to indicate the air temperature in the warmest part of the unit and, except for vending machines, shall be affixed to be readily visible. Except for vending machines, an accurate easily readable metal probe thermometer suitable for measuring the temperature of food shall be readily available on the premises.

(Amended Sec. 4, Ch. 532, Stats. 2002. Effective January 1, 2003.)

114815. For the purposes of this article the term "radioactive materials" shall include any material or combination of materials that spontaneously emits ionizing radiation.

INSURANCE CODE

557.5. No peace officer, member of the California Highway Patrol, or firefighter shall be required to report any accident in which he or she is involved while operating an authorized emergency vehicle, as defined in subdivision (a) or (f) of Section 165 of the Vehicle Code or in paragraph (1) or (2) of subdivision (b) of Section 165 of the Vehicle Code in the performance of his or her duty during the hours of his or her employment, to any person who has issued that peace officer, member of the California Highway Patrol, or firefighter a private automobile insurance policy.

As used in this section:

(a) "Peace officer" means every person defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code.

(b) "Policy" shall have the same meaning as defined in subdivision (a) of Section 660.

(Amended Ch. 1098, Stats. 1993. Effective January 1, 1994.)

557.6. Any peace officer or firefighter as defined pursuant to this section who has been involved in an accident shall submit to his or her private automobile insurer within 30 days of the accident his or her written declaration under penalty of perjury stating whether or not at the time of the accident he or she was operating an authorized emergency vehicle, as defined in subdivision (a) or (f) of Section 165 of the Vehicle Code or in paragraph (1) or (2) of subdivision (b) of Section 165 of the Vehicle Code in the performance of his or her duty during the hours of his or her employment. In lieu of a written declaration, the peace officer or firefighter may submit to the private automobile insurer a copy of the incident report filed by the peace officer or firefighter with his or her employer.

As used in this section, "peace officer" means every person defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, and firefighter means every person defined in Section 50925 of the Government Code.

(Amended Ch. 1098, Stats. 1993. Effective January 1, 1994. Supersedes Ch. 919.)

669.5. No insurer shall fail to renew any private automobile insurance policy of a peace officer, member of the California Highway Patrol, or firefighter, with respect to his or her operation of a private motor vehicle, for the reason that the insured has been involved in an accident while operating an authorized emergency vehicle, as defined in subdivision (a) of Section 165 of the Vehicle Code or in paragraph (1) or (2) of subdivision (b) or (f) of Section 165 of the Vehicle Code, in the performance of his or her duty during the hours of his or her employment. As used in this section, "peace officer" means every person defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 and Section 830.6 of the Penal Code, and "firefighter" means every person defined in Section 50925 of the Government Code.

In the case of a volunteer firefighter, this section applies to the regular employer of the volunteer firefighter to the extent that the involvement of the volunteer firefighter in the accident shall not be cause for the employer's insurer's decision to renew the employer's insurance policy as it applies to the employee covered by this section.

1861.025. A person is qualified to purchase a Good Driver Discount policy if he or she meets all of the following criteria:

(a) He or she has been licensed to drive a motor vehicle for the previous three years.

(b) During the previous three years, he or she has not done any of the following:

(1) Had more than one violation point count determined as provided by subdivision (a), (b), (c), (d), (e), (g), or (h) of Section 12810 of the Vehicle Code, but subject to the following modifications:

For the purposes of this section, the driver of a motor vehicle involved in an accident for which he or she was principally at fault that resulted only in damage to property shall receive one violation point count, in addition to any other violation points that may be imposed for this accident.

If, under Section 488 or 488.5, an insurer is prohibited from increasing the premium on a policy on account of a violation, that violation shall not be included in determining the point count of the person.

If a violation is required to be reported under Section 1816 of the Vehicle Code, or under Section 784 of the Welfare and Institutions Code, or any other provision requiring the reporting of a violation by a minor, the violation shall be included for the purposes of this section in determining the point count in the same manner as is applicable to adult violations.

(2) Had more than one dismissal pursuant to Section 1803.5 of the Vehicle Code that was not made confidential pursuant to Section 1808.7 of the Vehicle Code, in the 36-month period for violations that would have resulted in the imposition of more than one violation point count under paragraph (1) if the complaint had not been dismissed.

(3) Was the driver of a motor vehicle involved in an accident that resulted in bodily injury or in the death of any person and was principally at fault. The commissioner shall adopt regulations setting guidelines to be used by insurers for the determination of fault for the purposes of this paragraph and paragraph (1).

(c) During ***the period commencing on January 1, 1999, or the date 10 years prior to the date of application for the issuance or renewal of the Good Driver Discount policy, whichever is later, and ending on the date of the application for the issuance or renewal of the Good Driver Discount policy***, he or she has not been convicted of a violation of Section 23140, 23152, or 23153 of the Vehicle Code, a felony violation of Section 23550 or 23566, or former Section 23175 or, as those sections read on January 1, 1999, of the Vehicle Code, or a violation of Section 191.5 or paragraph (3) of subdivision (c) of Section 192 of the Penal Code.

(d) Any person who claims that he or she meets the criteria of subdivisions (a), (b), and (c) based entirely or partially on a driver's license and driving experience acquired anywhere other than in the United States or Canada is rebuttably presumed to be qualified to purchase a Good Driver Discount policy if he or she has been licensed to drive in the United States or Canada for at least the previous 18 months and meets the criteria of subdivisions (a), (b), and (c) for that period.

(Amended Sec. 1, Ch. 109, Stats. 2005. Effective January 1, 2006.)

Motor Vehicle Theft and Motor Vehicle Insurance Fraud Reporting

1874. This article shall be known and may be cited as the Motor Vehicle Theft and Motor Vehicle Insurance Fraud Reporting Act.

(Added Ch. 1119, Stats. 1989. Effective January 1, 1990.)

1874.1. The following definitions govern the construction of this article, unless the context requires otherwise:

(a) "Authorized governmental agency" means the Department of the California Highway Patrol, the Department of Insurance, the Department of Justice, the Department of Motor Vehicles, the police department of a city, or a city and county, the sheriff's office or department of a county, a law enforcement agency of the federal government, the district attorney of any county, or city and county, and any licensing agency governed by the Business and Professions Code ***or the Chiropractic Initiative Act***.

(b) "Relevant" means having a tendency to make the existence of any fact that is of consequence to the investigation or determination of an issue more probable or less probable than it would be without the information.

(c) Information shall be deemed important if, within the sole discretion of the authorized governmental agency, that information is requested by that authorized governmental agency.

(d) "Insurer" means the automobile assigned risk plan established pursuant to Section 11620 of the Insurance Code, as well as any insurer writing insurance for motor vehicles or otherwise liable for any loss due to motor vehicle theft or motor vehicle insurance fraud.

(e) "Motor vehicle" means motor vehicle as defined in Section 415 of the Vehicle Code.

(Amended Sec. 3, Ch. 415, Stats. 2005. Effective January 1, 2006.)

1874.2. (a) Upon written request to an insurer by an authorized governmental agency, an insurer, or agent authorized by that insurer to act on behalf of the insurer, shall release to the requesting authorized governmental agency any or all relevant information deemed important to the authorized governmental agency which the insurer may possess relating to any specific motor vehicle theft or motor vehicle insurance fraud. Relevant information may include, but is not limited to, all of the following:

(1) Insurance policy information relevant to the motor vehicle theft or motor vehicle insurance fraud under investigation, including, but not limited to, any application for a policy.

(2) Policy premium payment records which are available.

(3) History of previous claims made by the insured.

(4) Information relating to the investigation of the motor vehicle theft or motor vehicle insurance fraud, including statements of any person, proof of loss, and notice
of loss.

(b) (1) When an insurer knows or reasonably believes it knows the identity of a person whom it has reason to believe committed a criminal or fraudulent act relating to a motor vehicle theft or motor vehicle insurance claim or has knowledge of such a criminal or fraudulent act which is reasonably believed not to have been reported to an authorized governmental agency, then, for the purpose of notification and investigation, the insurer, or an agent authorized by an insurer to act on its behalf, shall notify the local police department, sheriff's office, the Department of the California Highway Patrol, or district attorney's office, and may notify any other authorized governmental agency of that knowledge or reasonable belief and provide any additional information in accordance with subdivision (a).

(2) When an insurer provides the local police department, sheriff's office, the Department of the California Highway Patrol, or district attorney's office with notice pursuant to this section, it shall be deemed sufficient notice to all authorized governmental agencies for the purpose of this chapter. Nothing in this section shall relieve an insurer of its obligations under Section 12992 of the Insurance Code.

(3) Nothing in this subdivision shall abrogate or impair the rights or powers created under subdivision (a).

(c) The authorized governmental agency provided with information pursuant to subdivision (a) or (b) may release or provide that information to any other authorized governmental agency.

(d) An authorized governmental agency shall notify the affected insurer in writing when it has reason to believe that a fraudulent act relating to a motor vehicle theft or motor vehicle insurance claim has been committed. The agency shall provide this notice within a reasonable time, not to exceed 30 days. The agency may also release more specific information pursuant to this section when it determines that an ongoing investigation would not be jeopardized. The agency may require a fee from the insurer equal to the cost of providing the notice or the information specified in this section.

(e) An insurer providing information to an authorized agency pursuant to this section shall provide the information within a reasonable time, but not to exceed 30 days from the day on which the duty arose.

(Added Ch. 1119, Stats. 1989. Effective January 1, 1990.)

1874.3. (a) Any information acquired pursuant to this article shall not be a part of any public record. Except as otherwise provided by law, any authorized governmental agency, an insurer, or an agent authorized by an insurer to act on its behalf, which receives any information furnished pursuant to this article shall not release that information to public inspection.

(b) The evidence or information described in this section shall be privileged and shall not be subject to subpoena or subpoena duces tecum in a civil or criminal proceeding unless, after reasonable notice to any insurer, agent authorized by an insurer to act on its behalf, and an authorized governmental agency which has an interest in the information, and a hearing, the court determines that the public interest and any ongoing investigation by the authorized governmental agency, insurer, or an agent authorized by an insurer to act on its behalf will not be jeopardized by its disclosure, or by the issuance of and compliance with a subpoena or subpoena duces tecum.

(Added Ch. 1119, Stats. 1989. Effective January 1, 1990.)

11580.011. (a) As used in this section, "child passenger restraint system" means a system as described in Section 27360 of the Vehicle Code.

(b) Every policy of automobile liability insurance, as described in Section 16054 of the Vehicle Code, shall provide liability coverage for replacement of a child passenger restraint system that was in use by a child during an accident for which liability coverage under the policy is applicable due to the liability of an insured.

(c) Every policy of automobile liability insurance that provides uninsured motorist property damage coverage, as described in paragraph (2) of subdivision (a) of Section 11580.26, shall provide coverage for replacement of a child passenger restraint system that was in use by a child during an accident for which uninsured motorist property damage coverage under the policy is applicable due to the liability of an uninsured motorist.

(d) Every policy that provides automobile collision coverage or automobile physical damage coverage, as described in Section 660, shall include a child passenger restraint system within the definition of covered property, if the child passenger restraint system was in use by a child during an accident.

(e) Upon the filing of a claim pursuant to a policy described in subdivision (b), (c), or (d), unless otherwise determined, an insurer shall have an obligation to ask whether a child passenger restraint system was in use by a child during an accident that is covered by the policy, and an obligation to replace the child passenger restraint system in accordance with this section if it was in use by a child during the accident or reimburse the claimant for the cost of purchasing a new child passenger restraint system.

(f) An insured, upon acquiring a replacement child passenger restraint system, may surrender the child passenger restraint system that was replaced to the nearest office of the Department of the California Highway Patrol.

(Amended Sec. 1, Ch. 703, Stats. 2002. Effective January 1, 2003.)

Required Provisions for Liability Policy

11580.1. (a) No policy of automobile liability insurance described in Section 16054 of the Vehicle Code covering liability arising out of the ownership, maintenance, or use of any motor vehicle shall be issued or delivered in this state on or after the effective date of this section unless it contains the provisions set forth in subdivision (b). However, none of the requirements of subdivision (b) shall apply to the insurance afforded under the policy (1) to the extent that the insurance exceeds the limits specified in subdivision (a) of Section 16056 of the Vehicle Code, or (2) if the policy contains an underlying insurance requirement, or provides for a retained limit of self-insurance, equal to or greater than the limits specified in subdivision (a) of Section 16056 of the Vehicle Code.

(b) Every policy of automobile liability insurance to which subdivision (a) applies shall contain all of the following provisions:

(1) Coverage limits not less than the limits specified in subdivision (a) of Section 16056 of the Vehicle Code.

(2) Designation by explicit description of, or appropriate reference to, the motor vehicles or class of motor vehicles to which coverage is specifically granted.

(3) Designation by explicit description of the purposes for which coverage for those motor vehicles is specifically excluded.

(4) Provision affording insurance to the named insured with respect to any owned or leased motor vehicle covered by the policy, and to the same extent that insurance is afforded to the named insured, to any other person using the motor vehicle, provided the use is by the named insured or with his or her permission, express or implied, and within the scope of that permission, except that: (i) with regard to insurance afforded for the loading or unloading of the motor vehicle, the insurance may be limited to apply only to the named insured, a relative of the named insured who is a resident of the named insured's household, a lessee or bailee of the motor vehicle, or an employee of any of those persons; and (ii) the insurance afforded to any person other than the named insured need not apply to: (A) any employee with respect to bodily injury sustained by a fellow employee injured in the scope and course of his or her employment, or (B) any person, or to any agent or employee thereof, employed or otherwise engaged in the business of selling, repairing, servicing, delivering, testing, road-testing, parking, or storing automobiles with respect to any accident arising out of the maintenance or use of a motor vehicle in connection therewith. As used in this chapter, "owned motor vehicle" includes all motor vehicles described and rated in the policy.

(c) In addition to any exclusion provided in paragraph (3) of subdivision (b), the insurance afforded by any policy of automobile liability insurance to which subdivision (a) applies, including the insurer's obligation to defend, may, by appropriate policy provision, be made inapplicable to any or all of the following:

(1) Liability assumed by the insured under contract.

(2) Liability for bodily injury or property damage caused intentionally by or at the direction of the insured.

(3) Liability imposed upon or assumed by the insured under any workers' compensation law.

(4) Liability for bodily injury to any employee of the insured arising out of and in the course of his or her employment.

(5) Liability for bodily injury to an insured or liability for bodily injury to an insured whenever the ultimate benefits of that indemnification accrue directly or indirectly to an insured.

(6) Liability for damage to property owned, rented to, transported by, or in the charge of, an insured. A motor vehicle operated by an insured shall be considered to be property in the charge of an insured.

(7) Liability for any bodily injury or property damage with respect to which insurance is or can be afforded under a nuclear energy liability policy.

(8) Any motor vehicle or class of motor vehicles, as described or designated in the policy, with respect to which coverage is explicitly excluded, in whole or in part.

The term "the insured" as used in paragraphs (1), (2), (3), and (4) shall mean only that insured under the policy against whom the particular claim is made or suit brought. The term "an insured" as used in paragraphs (5) and (6) shall mean any insured under the policy including those persons who would have otherwise been included within the policy's definition of an insured but, by agreement, are subject to the limitations of paragraph (1) of subdivision (d).

(d) Notwithstanding the provisions of paragraph (4) of subdivision (b), or the provisions of Article 2 (commencing with Section 16450) of Chapter 3 of Division 7 of, or Article 2 (commencing with Section 17150) of Chapter 1 of Division 9 of, the Vehicle Code, the insurer and any named insured may, by the terms of any policy of automobile liability insurance to which subdivision (a) applies, or by a separate writing relating thereto, agree as to either or both of the following limitations, the agreement to be binding upon every insured to whom the policy applies and upon every third-party claimant:

(1) That coverage and the insurer's obligation to defend under the policy shall not apply nor accrue to the benefit of any insured or any third-party claimant while any motor vehicle is being used or operated by a natural person or persons designated by name. These limitations shall apply to any use or operation of a motor vehicle, including the negligent or alleged negligent entrustment of a motor vehicle to that designated person or persons. This agreement applies to all coverage provided by that policy and is sufficient to comply with the requirements of paragraph (2) of subdivision (a) of Section 11580.2 to delete coverage when a motor vehicle is operated by a natural person or persons designated by name. The insurer shall have an obligation to defend the named insured when all of the following apply to designated natural person:

(A) He or she is a resident of the same household as the named insured.

(B) As a result of operating the insured motor vehicle of the named insured, he or she is jointly sued with the named insured.

(C) He or she is an insured under a separate automobile liability insurance policy issued to him or her as a named insured, which policy does not provide a defense to the named insured.

An agreement made by the insurer and any named insured more than 60 days following the inception of the policy excluding a designated person by name shall be effective from the date of the agreement and shall, with the signature of a named insured, be conclusive evidence of the validity of the agreement.

That agreement shall remain in force as long as the policy remains in force, and shall apply to any continuation, renewal, or replacement of the policy by the named insured, or reinstatement of the policy within 30 days of any lapse thereof.

(2) That with regard to a policy issued to a named insured engaged in the business of leasing vehicles for those vehicles that are leased for a term in excess of six months, or selling, repairing, servicing, delivering, testing, road-testing, parking, or storing automobiles, coverage shall not apply to any person other than the named insured or his or her agent or employee, except to the extent that the limits of liability of any other valid and collectible insurance available to that person are not equal to the limits of liability specified in subdivision (a) of Section 16056 of the Vehicle Code. If the policy is issued to a named insured engaged in the business of leasing vehicles, which business includes the lease of vehicles for a term in excess of six months, and the lessor includes in the lease automobile liability insurance, the terms and limits of which are not otherwise specified in the lease, the named insured shall incorporate a provision in each vehicle lease contract advising the lessee of the provisions of this subdivision and the fact that this limitation is applicable except as otherwise provided for by statute or federal law.

(e) Nothing in this section or in Section 16054 or 16450 of the Vehicle Code shall be construed to constitute a homeowner's policy, personal and residence liability policy, personal and farm liability policy, general liability policy, comprehensive personal liability policy, manufacturers' and contractors' policy, premises liability policy, special multiperil policy, or any policy or endorsement where automobile liability coverage is offered as incidental to some other basic coverage as an "automobile liability policy" within the meaning of Section 16054 of the Vehicle Code, or as a "motor vehicle liability policy" within the meaning of Section 16450 of the Vehicle Code, nor shall any provision of this section apply to a policy that provides insurance covering liability arising out of the ownership, maintenance, or use of any motor vehicle in the Republic of Mexico issued or delivered in this state by a nonadmitted Mexican insurer, notwithstanding that the policy may provide automobile or motor vehicle liability coverage on insured premises or the ways immediately adjoining.

(f) On and after January 1, 1976, no policy of automobile liability insurance described in subdivision (a) shall be issued, amended, or renewed in this state if it contains any provision that expressly or impliedly excludes from coverage under the policy the operation or use of an insured motor vehicle by the named insured in the performance of volunteer services for a nonprofit charitable organization or governmental agency by providing social service transportation. This subdivision shall not apply in any case in which the named insured receives any remuneration of any kind other than reimbursement for actual mileage driven in the performance of those services at a rate not to exceed the following:

(1) For the 1980–81 fiscal year, the maximum rate authorized by the State Board of Control, which shall also be known as the "base rate."

(2) For each fiscal year thereafter, the greater of either (A) the maximum rate authorized by the State Board of Control or (B) the base rate as adjusted by the California Consumer Price Index.

No policy of insurance issued under this section may be canceled by an insurer solely for the reason that the named insured is performing volunteer services for a nonprofit charitable organization or governmental agency consisting of providing social service transportation.

For the purposes of this section, "social service transportation" means transportation services provided by private nonprofit organizations or individuals to either individuals who are senior citizens or individuals or groups of individuals who have special transportation needs because of physical or mental conditions and supported in whole or in part by funding from private or public agencies.

(g) Notwithstanding the provisions of paragraph (4) of subdivision (b) of this section, or the provisions of Article 2 (commencing with Section 16450) of Chapter 3 of Division 7 of, or Article 2 (commencing with Section 17150) of Chapter 1 of Division 9 of, the Vehicle Code, a Mexican nonadmitted insurer and any named insured may, by the terms of any policy of automobile insurance for use solely in the Republic of Mexico to which subdivision (a) applies, or by a separate writing relating thereto, agree to the limitation that coverage under that policy shall not apply to any person riding in or occupying a vehicle owned by the insured or driven by another person with the permission of the insured. The agreement shall be binding upon every insured to whom the policy applies and upon any third-party claimant.

(h) No policy of automobile insurance that provides insurance covering liability arising out of the ownership, maintenance or use of any motor vehicle solely in the Republic of Mexico issued by a nonadmitted Mexican insurance company, shall be subject to, or provide coverage for, those coverages provided in Section 11580.2.

(Amended Sec. 3, Ch. 313, Stats. 1999. Effective January 1, 2000.)

11580.8. The Legislature declares it to be the public policy of this state to avoid so far as possible conflicts and litigation, with resulting court congestion, between and among injured parties, insureds, and insurers concerning which, among various policies of liability insurance and the various coverages therein, are responsible as primary, excess, or sole coverage, and to what extent, under the circumstances of any given event involving death or injury to persons or property caused by the operation or use of motor vehicle.

The Legislature further declares it to be the public policy of this state that Section 11580.9 of the Insurance Code expresses the total public policy of this state respecting the order in which two or more of such liability insurance policies covering the same loss shall apply, and such public policy is not to be changed or modified by any provision of the Vehicle Code except in those express cases where the requirements of Article 2 (commencing with Section 16450) of

Chapter 3 of Division 7 of the Vehicle Code apply with regard to a policy of liability insurance certified as provided in Section 16431 of the Vehicle Code.

(Added Ch. 300, Stats. 1970. Effective November 23, 1970.)

11580.10. Any liability insurer issuing or renewing an automobile liability policy or a motor vehicle liability policy within the meaning of subdivision (a) of Section 16054 of the Vehicle Code shall provide written notice to the named insured of the policy identification number that may be used for verifying financial responsibility for purposes of Section 16028 of the Vehicle Code. This notice may be provided in a written binder, if any, or in the policy documents provided upon issuance or renewal of the policy. The insurer shall provide at least two copies of the notice to the insured and shall, upon request and payment of the reasonable cost thereof, provide additional copies.

(Amended Ch. 1124, Stats. 1989. Effective January 1, 1990.)

11628.3. (a) Based on the actuarial and loss experience data available to each insurer, including the driving records of mature driver improvement course graduates, as recorded by the Department of Motor Vehicles, every admitted insurer shall provide for an appropriate percentage of reduction in premium rates for motor vehicle liability insurance for principal operators who are 55 years of age or older and who produce proof of successful completion of the mature driver improvement course provided for and approved by the Department of Motor Vehicles pursuant to Section 1675 of the Vehicle Code.

(b) The insured shall enroll in and successfully complete the course described in subdivision (a) once every three years in order to continue to be eligible for an appropriate percentage of reduced premium.

(c) The percentage of premium reduction required by subdivision (a) shall be reassessed by the insurer upon renewal of the insured's policy. The insured's eligibility for any percentage of premium reduction shall be effective for a three-year period from the date of successful completion of the course described in subdivision (a), except that the insurer may discontinue the reduced premium rate if the insured is in any case:

(1) Involved in an accident for which the insured is at fault, as determined by the insurer.

(2) Convicted of a violation of Division 11 (commencing with Section 21000) of the Vehicle Code, except Chapter 9 (commencing with Section 22500) of that division, or of a traffic related offense involving alcohol or narcotics.

(d) The percentage of premium rate reduction required by subdivision (a) does not apply in the event the insured enrolls in, and successfully completes, an approved course pursuant to a court order provided for in Section 42005 of the Vehicle Code. Nothing in this subdivision precludes an insured from also enrolling in a driver improvement course.

(Added Ch. 1325, Stats. 1986. Effective January 1, 1987.)

Article 5.5. California Low-Cost Automobile Insurance Program

(Amended Sec. 1, Ch. 435, Stats. 2005. Effective January 1, 2006.)

11629.7. ***(a)*** There is established, within the California Automobile Assigned Risk Plan established under Section 11620, a low-cost automobile insurance program for ***all counties in California.***

(b) For the purpose of making the low-cost automobile insurance program operational in all counties of California, pursuant to subdivision (a), a low-cost automobile insurance program shall commence operations in the Counties of Alameda, Fresno, Orange, Riverside, San Bernardino, and San Diego, effective April 1, 2006, and shall be made operational in all other counties of California based upon a determination of need made by the commissioner. Program outreach shall focus primarily on those counties which have the highest number of uninsured drivers or the highest percentage of uninsured drivers or the highest percentage of low-income individuals. In making the determination of need for each county, the commissioner shall consider each of the following:

(1) The number or percentage of motorists within the county who are uninsured.

(2) The number or percentage of residents within the county who are low income.

(3) The availability of affordable automobile insurance options for the county's low-income residents within the private automobile insurance marketplace.

(c) (1) After making the initial determination of need, the commissioner shall, as soon as is practicable, hold a public meeting in that county.

(2) The public meeting required by paragraph (1) shall be held not for the consideration of rates, but for the public discussion of the need and desirability of the program for the consumers of the county. Within 30 days after the public meeting, the commissioner shall make public his or her final determination of whether a need for the program exists within the county. A separate hearing shall be held for the consideration of rates pursuant to Section 11629.72.

(d) The commissioner, after a public hearing, shall approve or issue a reasonable plan for the equitable apportionment, among insurers required to participate in the California Automobile Assigned Risk Plan established under Section 11620, of persons residing in the ***counties or cities and counties set forth in subdivisions (a) and (b)*** who are eligible to purchase through the program established in ***each county or city and*** county a low-cost automobile insurance policy, as described in Section 11629.71. The program shall be conducted in conjunction with the California Automobile Assigned Risk Plan established under Section 11620.

(Amended Sec. 2, Ch. 435, Stats. 2005. Effective January 1, 2006.)

11629.71. A low-cost automobile insurance policy for purposes of the program established under this article shall have all of the following attributes:

(a) The policy shall offer coverage in the amount of ten thousand dollars ($10,000) for bodily injury to, or death of, each person as a result of any one accident and, subject to that limit as to one person, the amount of twenty thousand dollars ($20,000) for bodily injury to, or death of all persons as a result of any one accident, and the amount of three thousand dollars ($3,000) for damage to property of others as a result of any one accident.

(b) The coverage required by Section 11580.2 shall be made available to the consumer. However, an insurer may charge a premium for that coverage in addition to the premium set forth in Section 11629.72. Notwithstanding the coverage amounts required by Section 11580.2 and Section 16056 of the Vehicle Code, uninsured motorist coverage issued in conjunction with a low-cost automobile policy under the program, with coverage limits at least equal to the limits of liability in the underlying low-cost automobile policy, shall satisfy the requirements of Section 11580.2 and the financial responsibility requirements of Sections 4000.37, 16021, and 16431 of the Vehicle Code.

(c) Medical payments coverage shall be made available to the consumer. However, an insurer may charge a premium for that coverage in addition to the premium set forth in Section 11629.72.

(d) The policy shall have an initial term of one year, renewable on an annual basis thereafter.

(e) The policy shall cover the person named in the policy, and to the same extent that insurance is provided to the named insured, any other person using the automobile, provided the use is with his or her permission, express or implied, and within the scope of that permission, except that the policy shall not cover members of the named insured's household who do not satisfy the requirements of subdivisions (b) to (e), inclusive, of Section 11629.73.

(f) The policy shall provide coverage for an automobile with a value, at the time of purchase by the insured, of ***twenty*** thousand dollars ***($20,000)*** or less, as evidenced by the value given to the automobile by the Department of Motor Vehicles in assessing vehicle license fees.

(Amended Sec. 3, Ch. 435, Stats. 2005. Effective January 1, 2006.)

11629.72. (a) ***Effective March 1, 2003, the*** annual rate offered under the program for the low-cost automobile policy, ***unless and*** until the time that the rate is adjusted, shall be ***three hundred forty-seven dollars ($347) per covered vehicle for the County of Los Angeles and three hundred fourteen dollars ($314) per covered vehicle for the City and County of San Francisco, unless the commissioner establishes that rate or a different rate prior to that time. The annual rate offered initially under the program for each of the Counties of Alameda, Fresno, Orange, Riverside, San Bernardino, and San Diego shall be established by the commissioner no later than April 1, 2006.***

The annual rate offered initially under the program for each of the other counties in California shall be established at a date according to the discretion of the commissioner. A surcharge***, as a percentage*** of the base rate, shall be added ***to the base rate and that percentage shall be set at the discretion of the commissioner, if the named insured is*** an unmarried male between the ages of 19 and 24, inclusive, or if an unmarried male between the ages of 19 and 24, inclusive, resides in the household of the named insured and will be a driver of the automobile covered under the low-cost policy.

(b) In addition to existing premium installment options offered by the California Automobile Assigned Risk Plan under Article 4 (commencing with Section 11620), the plan shall also make available to an insured under the program a premium installment option pursuant to which an insured is required to pay ***not more than 15 percent of the total policy cost*** upon issuance of the low-cost policy, followed thereafter by six other payments. No other premium financing arrangement shall be permitted.

(c) Rates for policies issued under the program ***in each county or city and county*** shall be reviewed and revised as follows:

(1) Rates shall be sufficient to cover (A) losses incurred under policies issued under the program, and (B) expenses, including, but not limited to, all reasonable and necessary expenses such as the costs of administration, underwriting, taxes, commissions, and claims adjusting, that are incurred due to participation in ***the*** program. For purposes of this paragraph, "losses incurred" means claims paid, claims incurred and reported, and claims incurred but not yet reported. In assessing loss reserves, the commissioner shall only allow loss reserves that are estimated from actual losses in the program or comparable data by a licensed statistical agent, as adjusted to reflect coverage provided under ***the*** program.

(2) Rates shall be set so as to result in no projected subsidy of the program by those policyholders of insurers issuing policies under the program who are not participants in the program.

(3) Rates shall be set with respect to the program so as to result in no projected subsidy by policyholders in one ***county*** of policyholders in ***any of*** the other ***counties***.

(4) Commencing on January 1, 2001, and annually thereafter, the California Automobile Assigned Risk Plan shall submit the loss and expense data, together with a proposed rate ***and the surcharge authorized by subdivision (a)*** for the low-cost automobile policy for the program, to the commissioner for approval in accordance with this chapter. The commissioner shall act on the recommendation within 90 days.

(Amended Sec. 4, Ch. 435, Stats. 2005. Effective January 1, 2006.)

11629.73. A low-cost automobile insurance policy under the program shall only be available for purchase by persons who satisfy the following eligibility requirements:

(a) The person shall be in a household with a gross annual household income that does not exceed ***250*** percent of the federal poverty level***, as defined in Part 6.2 (commencing with Section 12693) or as defined in an equivalent manner that is approved by the commissioner***.

(b) The person shall be no less than 19 years of age and have been continuously licensed to drive an automobile for the previous three years.

(c) The person shall have not more than one of either, but not both, of the following within the previous three years:

(1) A property damage only accident in which the driver was principally at fault.

(2) A point for a moving violation.

(d) The person shall not have on record within the previous three years, an at-fault accident involving bodily injury or death.

(e) The person shall not have a felony or misdemeanor conviction for a violation of the Vehicle Code on his or her motor vehicle record.

(f) The person shall not be a college student claimed as a dependent of another person for federal or state income tax purposes.

(Amended Sec. 5, Ch. 435, Stats. 2005. Effective January 1, 2006.)

11629.731. A person who meets the requirements of subdivision (a) of Section 11629.73, and who claims that he or she meets the requirements of subdivisions (b) to (e), inclusive, of Section 11629.73 based entirely or partially on a driver's license and driving experience obtained other than in the United States or Canada, shall be entitled to a rebuttable presumption that he or she is qualified to purchase a low-cost automobile insurance policy under the program if he or she has been licensed to drive pursuant to a license obtained in the United States or Canada for at least the previous 18 months and meets the criteria of subdivisions (b) to (e), inclusive, for that period.

(Amended Sec. 6, Ch. 435, Stats. 2005. Effective January 1, 2006.)

11629.74. (a) Application may be made through any producer certified by the plan. The applicant, in order to demonstrate financial eligibility to purchase a low-cost automobile insurance policy under the program, shall present at the time of applying for the policy, a copy of the applicant's federal or state income tax return for the previous year or other reliable evidence from a governmental agency or governmental means-tested program of the applicant's gross annual household income, pursuant to regulations issued under subdivision (b) of Section 11629.79.

(b) The applicant shall certify that the representations made in the documents submitted as proof of financial eligibility and in the application for the policy are true, correct, and contain no material misrepresentations or omissions of fact to the best knowledge and belief of the applicant.

(c) The certified producer shall forward the application, supporting documents, and the applicant's certification to the California Automobile Assigned Risk Plan.

(Amended Sec. 7, Ch. 435, Stats. 2005. Effective January 1, 2006.)

11629.75. (a) A certified producer shall provide to an applicant for a low-cost automobile insurance policy under this article a notice relating to coverage under the policy. The notice shall be provided in a separate document at the time of application, and include the following statement in 14-point boldface type:

"NOTICE

INSURANCE COVERAGE PROVIDED IN THE POLICY YOU ARE BUYING CONTAINS REDUCED LIABILITY COVERAGE FOR PERSONAL INJURIES OR PROPERTY DAMAGE RESULTING FROM THE OPERATION OF THE INSURED VEHICLE. IF LOSSES FROM AN AUTOMOBILE ACCIDENT EXCEED THE COVERAGE PROVIDED BY THIS POLICY, YOU CAN BE HELD PERSONALLY LIABLE AND RESPONSIBLE FOR THOSE LOSSES.

THIS POLICY PROVIDES LIABILITY COVERAGE FOR INJURIES OR DEATH CAUSED TO OTHER PERSONS IN THE TOTAL AMOUNT OF TEN THOUSAND DOLLARS ($10,000) PER PERSON IN ANY ONE ACCIDENT, AND UP TO A TOTAL AMOUNT OF TWENTY THOUSAND ***DOLLARS*** ($20,000) FOR ALL PERSONS IN ANY ONE ACCIDENT. THE POLICY ALSO PROVIDES UP TO A TOTAL AMOUNT OF THREE THOUSAND DOLLARS ($3,000) IN LIABILITY COVERAGE FOR PROPERTY DAMAGE IN ANY ONE ACCIDENT. IF YOU WANT MORE INSURANCE COVERAGE, YOU MUST REQUEST A DIFFERENT POLICY.

THIS POLICY ALSO DOES NOT COVER DAMAGE TO YOUR OWN VEHICLE, LOSSES RESULTING FROM YOUR BODILY INJURY OR DEATH, OR COVERAGE FOR LOSSES CAUSED BY AN UNINSURED OR UNDERINSURED DRIVER. HOWEVER, THESE OTHER COVERAGES MAY BE AVAILABLE AT EXTRA COST THROUGH OTHER INSURERS.

THIS POLICY MAY ALSO CONTAIN UNINSURED MOTORIST BODILY INJURY COVERAGE IN THE TOTAL AMOUNT OF TEN THOUSAND DOLLARS ($10,000) PER PERSON IN ANY ONE ACCIDENT AND UP TO A TOTAL AMOUNT OF TWENTY THOUSAND DOLLARS ($20,000) FOR ALL PERSONS IN ANY ONE ACCIDENT, IF YOU SO CHOOSE. IN ADDITION, THIS POLICY MAY ALSO CONTAIN MEDICAL PAYMENTS COVERAGE IN THE AMOUNT OF ONE THOUSAND DOLLARS ($1,000) PER PERSON IN ANY ONE ACCIDENT, IF YOU SO CHOOSE.

THIS POLICY DOES NOT COVER ANY OTHER DRIVER IN YOUR HOUSEHOLD WHO:

(a) IS UNDER 19 YEARS OF AGE; OR

(b) HAS LESS THAN 3 YEARS OF CONTINUOUSLY LICENSED DRIVING EXPERIENCE; OR

(c) HAS MORE THAN ONE OF EITHER, OR BOTH, OF THE FOLLOWING:

—A PROPERTY DAMAGE ONLY ACCIDENT IN WHICH THE DRIVER WAS PRINCIPALLY AT FAULT.

—A POINT FOR A MOVING VIOLATION; OR

(d) HAS IN THE PREVIOUS 3 YEARS AN AT-FAULT ACCIDENT INVOLVING BODILY INJURY OR DEATH; OR

(e) HAS A FELONY OR MISDEMEANOR CONVICTION FROM A VIOLATION OF THE VEHICLE CODE ON HIS OR HER MOTOR VEHICLE RECORD."

(b) When the certified producer establishes delivery of the disclosure form specified in subdivision (a) by obtaining the signature of the applicant or insured, there shall be a conclusive presumption that the certified producer has complied with the disclosure requirements of this section.

(Amended Sec. 8, Ch. 435, Stats. 2005. Effective January 1, 2006.)

11629.76. ***(a)*** For a low-cost automobile insurance policy issued pursuant to the program, certified producers shall be entitled to the same commission rate as is paid by the California Automobile Assigned Risk Plan for private passenger, nonfleet risks under Article 4 (commencing with Section 11620).

(b) Notwithstanding subdivision (a), the commissioner may at any time establish a commission for a low-cost automobile insurance policy issued pursuant to the program and may make the commission effective on any policy originated within an entire year, or any portion of a year, as is needed to provide an incentive to certified producers to sell low-cost automobile insurance to eligible applicants. The commissioner shall not establish a commission pursuant to this subdivision if the commissioner determines that setting the commission rate will result in a lower commission percentage than would exist pursuant to subdivision (a).

(c) No other fees of any kind may be charged or collected ***pursuant to this section*** and the sale of a low-cost policy under this article shall not be conditioned on the purchase of any other product or service.

(Amended Sec. 9, Ch. 435, Stats. 2005. Effective January 1, 2006.)

11629.77. (a) A low-cost automobile insurance policy issued pursuant to the program shall be canceled only for the following reasons:

(1) Nonpayment of premium.

(2) Fraud or material misrepresentation affecting the policy or the insured.

(3) The purchase of additional automobile liability insurance coverage in violation of subdivision (a) of Section 11629.78.

(4) The purchase or maintenance of automobile liability insurance coverage other than a low-cost policy for any additional vehicles in the insured's household, in violation of subdivision (b) of Section 11629.78.

(b) A policy shall be nonrenewed only for the following reasons:

(1) A substantial increase in the hazard insured against.

(2) The insured no longer meets the applicable eligibility requirements. In this regard, the eligibility of an insured shall be recertified by the California Automobile Assigned Risk Plan after the first year of eligibility, and annually thereafter by the insurer that issued the policy.

(Amended Sec. 10, Ch. 435, Stats. 2005. Effective January 1, 2006.)

11629.78. (a) An insured under the program shall not purchase automobile liability insurance coverage that is in addition to the liability coverage provided by the low-cost policy. However, the insured may purchase any other additional type of automobile insurance coverage, such as uninsured motorist coverage or collision coverage outside the plan.

(b) An insured under the program shall not purchase or maintain any automobile liability insurance coverage other than a low-cost policy for any additional vehicles in the insured's household.

(c) No more than two low-cost policies ***per person*** are permitted.

(Amended Sec. 11, Ch. 435, Stats. 2005. Effective January 1, 2006.)

11629.79. (a) The program ***for the County of Los Angeles and the City and County of San Francisco*** is authorized to commence operations on January 1, 2000, but shall be fully operational no later than July 1, 2000.

(b) To this end, the commissioner, in consultation with the California Automobile Assigned Risk Plan, shall adopt regulations to implement the provisions of this article within 60 days of its effective date. The regulations shall be adopted as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of the Government Code, and for purposes of that chapter, the adoption of the regulations shall be considered by the Office of Administrative Law to be necessary for the immediate preservation of the public peace, health and safety, and general welfare.

(c) The program for the Counties of Alameda, Fresno, Orange, Riverside, San Bernardino, and San Diego shall commence operations on April 1, 2006, and shall be made operational in all other counties of California according to the discretion of the commissioner. The commissioner, in consultation with the California Automobile Assigned Risk Plan, shall adopt regulations to implement the expansion of the program to these counties. The regulations shall be adopted as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of the Government Code, and for purposes of that chapter, the adoption of the regulations shall be considered by the Office of Administrative Law to be necessary for the immediate preservation of the public peace, health and safety, and general welfare.

(Amended Sec. 12, Ch. 435, Stats. 2005. Effective January 1, 2006.)

11629.8. Notwithstanding the coverage amounts required by Section 16056 of the Vehicle Code, a low-cost automobile policy issued under the program shall satisfy the financial responsibility requirements of Sections 4000.37, 16021, and 16431 of the Vehicle Code.

(Amended Sec. 13, Ch. 435, Stats. 2005. Effective January 1, 2006.)

11629.81. The California Automobile Assigned Risk Plan shall report to the Legislature on an annual basis, commencing January 1, 2001, and at those additional times as it deems prudent, on the status of the program.

(Amended Sec. 14, Ch. 435, Stats. 2005. Effective January 1, 2006.)

11629.84. This article shall remain in effect only until ***January 1, 2011***, and as of that date is repealed, unless a later enacted statute, that is enacted before ***January 1, 2011***, deletes or extends that date.

(Amended Sec. 15, Ch. 435, Stats. 2005. Effective January 1, 2006.)

Financial Responsibility Penalty Account

12980. The Financial Responsibility Penalty Account is hereby created in the General Fund. Moneys in the account shall be expended, upon appropriation therefor, for matters including, but not limited to, automobile insurance and financial responsibility of vehicle owners and operators.

(Added Ch. 1494, Stats. 1985. Effective January 1, 1986.)

LABOR CODE

Physical Examinations for Driver's License

231. Any employer who requires, as a condition of employment, that an employee have a driver's license shall pay the cost of any physical examination of the employee which may be required for issuance of such license, except where the physical examination was taken prior to the time the employee applied for such employment with the employer.

(Added Ch. 1279, Stats. 1971. Effective March 4, 1972.)

Farm Labor Contractors

1682. As used in this chapter:

(a) "Person" includes any individual, firm, partnership, association, limited liability company, or corporation.

(b) "Farm labor contractor" designates any person who, for a fee, employs workers to render personal services in connection with the production of any farm products to, for, or under the direction of a third person, or who recruits, solicits, supplies, or hires workers on behalf of an employer engaged in the growing or producing of farm products, and who, for a fee, provides in connection therewith one or more of the following services: furnishes board, lodging, or transportation for those workers; supervises, times, checks, counts, weighs, or otherwise directs or measures their work; or disburses wage payments to these persons.

(c) "License" means a license issued by the Labor Commissioner to carry on the business, activities, or operations of a farm labor contractor under this chapter.

(d) "Licensee" means a farm labor contractor who holds a valid and unrevoked license under this chapter.

(e) "Fee" shall mean (1) the difference between the amount received by a labor contractor and the amount paid out by him or her to persons employed to render personal services to, for or under the direction of a third person; (2) any valuable consideration received or to be received by a farm labor contractor for or in connection with any of the services described above, and shall include the difference between any amount received or to be received by him or her, and the amount paid out by him or her, for or in connection with the rendering of such services.

(Amended Ch. 1010, Stats. 1994. Effective January 1, 1995.)

1682.3. "Farm labor contractor" includes any "day hauler." "Day hauler" means any person who is employed by a farm labor contractor to transport, or who for a fee transports, by motor vehicle, workers to render personal services in connection with the production of any farm products to, for, or under the direction of a third person.

(Added Ch. 1704, Stats. 1957.)

1696.3. Any farm labor contractor or person employed by a farm labor contractor who operates a bus or truck in the transportation of individuals in connection with the business, activities, or operations of a farm labor contractor shall be licensed as required by Section 12519 of the Vehicle Code.

(Amended Ch. 209, Stats. 1963.)

1696.4. (a) All vehicles defined in Section 322 of the Vehicle Code, including those described in Section 1696.3, used by a farm labor contractor for the transportation of individuals in his or her operations as a farm labor contractor, including, but not limited to, vehicles not owned by that contractor, shall be registered with the Labor Commissioner. The registration shall include the name of the owner and driver of the vehicle, and the license number and description of the vehicle. The Labor Commissioner shall require, as a condition of registration, that the farm labor contractor submit evidence showing that the contractor has in effect an insurance policy applicable to the vehicle, as required by Section 1695.

(b) Commencing on April 1, 2000, and quarterly thereafter, the Labor Commissioner shall provide the Commissioner of the California Highway Patrol with a list of all vehicles registered pursuant to subdivision (a).

(Amended Sec. 1, Ch. 556, Stats. 1999. Effective September 29, 1999.)

Stop Order Against Non-Complying Employer; Hearing; Writ of Mandate to Superior Court

3710.1. Where an employer has failed to secure the payment of compensation as required by Section 3700, the director shall issue and serve on such employer a stop order prohibiting the use of employee labor by such employer until the employer's compliance with the provisions of Section 3700. Such stop order shall become effective immediately upon service. Any employee so affected by such work stoppage shall be paid by the employer for such time lost, not exceeding 10 days, pending compliance by the employer. Such employer may protest the stop order by making and filing with the director a written request for a hearing within 20 days after service of such stop order. Such hearing shall be held within 5 days from the date of filing such request. The director shall notify the employer of the time and place of the hearing by mail. At the conclusion of the hearing the stop order shall be immediately affirmed or dismissed, and within 24 hours thereafter the director shall issue and serve on all parties to the hearing by registered or certified mail a written notice of findings and findings. A writ of mandate may be taken from the findings to the appropriate superior court. Such writ must be taken within 45 days after the mailing of the notice of findings and findings.

(Added Ch. 852, Stats. 1980.)

Transmission of Stop Order to the Public Utilities Commission

3710.3. Whenever a stop order has been issued pursuant to Section 3710.1 to a motor carrier of property subject to the jurisdiction and control of the Department of Motor Vehicles or to a household goods carrier, passenger stage corporation, or charter-party carrier of passengers subject to the jurisdiction and control of the Public Utilities Commission, the director shall transmit the stop order to the Public Utilities Commission or the Department of Motor Vehicles, whichever has jurisdiction over the affected carrier, within 30 days.

(Amended Sec. 123, Ch. 485, Stats. 1998. Effective January 1, 1999.)

Extent of Payment to Claimant

3716.2. Notwithstanding the precise elements of an award of compensation benefits, and notwithstanding the claim and demand for payment being made therefor to the director, the director, as administrator of the Uninsured Employers Fund, shall pay the claimant only such benefits allowed, recognizing proper liens thereon, that would have accrued against an employer properly insured for workers' compensation liability. The Uninsured Employers Fund shall not be liable for any penalties or for the payment of interest on any awards. However, in civil suits by the director to enforce payment of an award, including procedures pursuant to Section 3717, the total amount of the award, including interest, other penalties, and attorney's fees granted by the award, shall be sought. Recovery by the director, in a civil suit or by other means, of awarded benefits in excess of amounts paid to the claimant by the Uninsured Employers Fund shall be paid over to the injured employee or his representative, as the case may be.

(Amended Sec. 133, Ch. 83, Stats. 1999. Effective January 1, 2000.)

Transmission to Public Utilites Commission or Department of Motor Vehicles of Copy of Final Judgment Against Carrier and of Request that Carrier's Permit be Revoked

3716.4. Whenever a final judgment has been entered against a motor carrier of property subject to the jurisdiction and control of the Department of Motor Vehicles or a passenger stage corporation, charter-party carrier of passengers, or a household goods carrier subject to the jurisdiction and control of the Public Utilities Commission as a result of an award having been made pursuant to Section 3716.2, the director may transmit to the Public Utilities Commission or the Department of Motor Vehicles, whichever has jurisdiction over the affected carrier, a copy of the judgment along with the name and address of the regulated entity and any other persons, corporations, or entities named in the judgment which are jointly and severally liable for the debt to the State Treasury with a complaint requesting that the Public Utilities Commission or the Department of Motor Vehicles immediately revoke the carrier's Public Utilities Commission certificate of public convenience and necessity or Department of Motor Vehicles motor carrier permit.

(Amended Sec. 2.5, Ch. 1042, Stats. 1996. Effective September 29, 1996.)

PENAL CODE

Crimes—How Divided

16. Crimes and public offenses include:
1. Felonies;
2. Misdemeanors; and
3. Infractions.

(Amended Ch. 1192, Stats. 1968. Operative Jan. 1, 1969.)

Punishment for Infractions

19c. An infraction is not punishable by imprisonment. A person charged with an infraction shall not be entitled to a trial by jury. A person charged with an infraction shall not be entitled to have the public defender or other counsel appointed at public expense to represent him unless he is arrested and not released on his written promise to appear, his own recognizance, or a deposit of bail.

(Added Ch. 1192, Stats. 1968. Operative January 1, 1969.)

Application of Provisions of Law to Infractions

19d. Except as otherwise provided by law, all provisions of law relating to misdemeanors shall apply to infractions, including but not limited to powers of peace officers, jurisdiction of courts, periods for commencing action and for bringing a case to trial and burden of proof.

(Added Ch. 1192, Stats. 1968. Operative January 1, 1969.)

Penalty of Perjury

118. (a) Every person who, having taken an oath that he or she will testify, declare, depose, or certify truly before any competent tribunal, officer, or person, in any of the cases in which the oath may by law of the State of California be administered, willfully and contrary to the oath, states as true any material matter which he or she knows to be false, and every person who testifies, declares, deposes, or certifies under penalty of perjury in any of the cases in which the testimony, declarations, depositions, or certification is permitted by law of the State of California under penalty of perjury and willfully states as true any material matter which he or she knows to be false, is guilty of perjury.

This subdivision is applicable whether the statement, or the testimony, declaration, deposition, or certification is made or subscribed within or without the State of California.

(b) No person shall be convicted of perjury where proof of falsity rests solely upon contradiction by testimony of a single person other than the defendant. Proof of falsity may be established by direct or indirect evidence.

(Amended Ch. 950, Stats. 1990. Effective January 1, 1991.)

118.1. Every peace officer who files any report with the agency which employs him or her regarding the commission of any crime or any investigation of any crime, if he or she knowingly and intentionally makes any statement regarding any material matter in the report which the officer knows to be false, whether or not the statement is certified or otherwise expressly reported as true, is guilty of filing a false report punishable by imprisonment in the county jail for up to one year, or in the state prison for one, two, or three years. This section shall not apply to the contents of any statement which the peace officer attributes in the report to any other person.

(Amended Ch. 427, Stats. 1992. Effective January 1, 1993.)

Simulating Official Inquiries

146b. Every person who, with intent to lead another to believe that a request or demand for information is being made by the State, a county, city, or other governmental entity, when such is not the case, sends to such other person a written or printed form or other communication which reasonably appears to be such request or demand by such governmental entity, is guilty of a misdemeanor.

(Added Ch. 2135, Stats. 1959.)

146e. (a) Every person who maliciously, and with the intent to obstruct justice or the due administration of the laws, or with the intent or threat to inflict imminent physical harm in retaliation for the due administration of the laws, publishes, disseminates, or otherwise discloses the residence address or telephone number of any peace officer, nonsworn police dispatcher, employee of a city police department or county sheriff's office, or public safety official, or that of the spouse or children of these persons who reside with them, while designating the peaceofficer, nonsworn police dispatcher, employee of a city police department or county sheriff's office, or public safety official, or relative of these persons as such, without the authorization of the employing agency, is guilty of a misdemeanor.

(b) A violation of subdivision (a) with regard to any peace officer, employee of a city police department or county sheriff's office, or public safety official, or the spouse or children of these persons, that results in bodily injury to the peace officer, employee of the city police department or county sheriff's office, or public safety official, or the spouse or children of these persons, is a felony.

(c) For purposes of this section, "public safety official" is defined in Section 6254.24 of the Government Code.transactions.

(Amended Sec. 4, Ch. 621, Stats. 2002. Effective January 1, 2003.)

Resisting, Delaying, or Obstructing Officer

148. (a) (1) Every person who willfully resists, delays, or obstructs any public officer, peace officer, or an emergency medical technician, as defined in Division 2.5 (commencing with Section 1797) of the Health and Safety Code, in the discharge or attempt to discharge any duty of his or her office or employment, when no other punishment is prescribed, shall be punished by a fine not exceeding one thousand dollars ($1,000), or by imprisonment in a county jail not to exceed one year, or by both that fine and imprisonment.

(2) Except as provided by subdivision (d) of Section 653t, every person who knowingly and maliciously interrupts, disrupts, impedes, or otherwise interferes with the transmission of a communication over a public safety radio frequency shall be punished by a fine not exceeding one thousand dollars ($1,000), imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment.

(b) Every person who, during the commission of any offense described in subdivision (a), removes or takes any weapon, other than a firearm, from the person of, or immediate presence of, a public officer or peace officer shall be punished by imprisonment in a county jail not to exceed one year or in the state prison.

(c) Every person who, during the commission of any offense described in subdivision (a), removes or takes a firearm from the person of, or immediate presence of, a public officer or peace officer shall be punished by imprisonment in the state prison.

(d) Except as provided in subdivision (c) and notwithstanding subdivision (a) of Section 489, every person who removes or takes without intent to permanently deprive, or who attempts to remove or take a firearm from the person of, or immediate presence of, a public officer or peace officer, while the officer is engaged in the performance of his or her lawful duties, shall be punished by imprisonment in a county jail not to exceed one year or in the state prison.

In order to prove a violation of this subdivision, the prosecution shall establish that the defendant had the specific intent to remove or take the firearm by demonstrating that any of the following direct, but ineffectual, acts occurred:

(1) The officer's holster strap was unfastened by the defendant.

(2) The firearm was partially removed from the officer's holster by the defendant.

(3) The firearm safety was released by the defendant.

(4) An independent witness corroborates that the defendant stated that he or she intended to remove the firearm and the defendant actually touched the firearm.

(5) An independent witness corroborates that the defendant actually had his or her hand on the firearm and tried to take the firearm away from the officer who was holding it.

(6) The defendant's fingerprint was found on the firearm or holster.

(7) Physical evidence authenticated by a scientifically verifiable procedure established that the defendant touched the firearm.

(8) In the course of any struggle, the officer's firearm fell and the defendant attempted to pick it up.

(e) A person shall not be convicted of a violation of subdivision (a) in addition to a conviction of a violation of subdivision (b), (c), or (d) when the resistance, delay, or obstruction, and the removal or taking of the weapon or firearm or attempt thereof, was committed against the same public officer, peace officer, or emergency medical technician.. A person may be convicted of multiple violations of this section if more than one public officer, peace officer, or emergency medical technician are victims.

(f) This section shall not apply if the public officer, peace officer, or emergency medical technician is disarmed while engaged in a criminal act.

(Amended Sec. 8, Ch. 853, Stats. 1999. Effective January 1, 2000.)

False "Emergency" Reports

148.3. (a) Any individual who reports, or causes any report to be made, to any city, county, city and county, or state department, district, agency, division, commission, or board, that an "emergency" exists, knowing that the report is false, is guilty of a misdemeanor and upon conviction thereof shall be punishable by imprisonment in the county jail for a period not exceeding one year, or by a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine.

(b) Any individual who reports, or causes any report to be made, to any city, county, city and county, or state department, district, agency, division, commission, or board, that an "emergency" exists, and who knows that the report is false, and who knows or should know that the response to the report is likely to cause death or great bodily injury, and great bodily injury or death is sustained by any person as a result of the false report, is guilty of a felony and upon conviction thereof shall be punishable by imprisonment in the state prison, or by a fine of not more than ten thousand dollars ($10,000), or by both that imprisonment and fine.

(c) "Emergency" as used in this section means any condition which results in, or which could result in, the response of a public official in an authorized emergency vehicle, aircraft, or vessel, or any condition which jeopardizes or could jeopardize public safety and results in, or could result in, the evacuation of any area, building, structure, vehicle, or of any other place which any individual may enter.

(Amended Sec. 1, Ch. 521, Stats. 2002. Effective January 1, 2003.)

False Report of Criminal Offense

148.5. (a) Every person who reports to any peace officer listed in Section 830.1 or 830.2, or subdivision (a) of Section 830.33, district attorney, or deputy district attorney that a felony or misdemeanor has been committed, knowing the report to be false, is guilty of a misdemeanor.

(b) Every person who reports to any other peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, that a felony or misdemeanor has been committed, knowing the report to be false, is guilty of a misdemeanor if (1) the false information is given while the peace officer is engaged in the performance of his or her duties as a peace officer and (2) the person providing the false information knows or should have known that the person receiving the information is a peace officer.

(c) Except as provided in subdivisions (a) and (b), every person who reports to any employee who is assigned to accept reports from citizens, either directly or by telephone, and who is employed by a state or local agency which is designated in Section 830.1, 830.2, subdivision (e) of Section 830.3, Section 830.31, 830.32, 830.33, 830.34, 830.35, 830.36, 830.37, or 830.4, that a felony or misdemeanor has been committed, knowing the report to be false, is guilty of a misdemeanor if (1) the false information is given while the employee is engaged in the performance of his or her duties as an agency employee and (2) the person providing the false information knows or should have known that the person receiving the information is an agency employee engaged in the performance of the duties described in this subdivision.

(d) Every person who makes a report to a grand jury that a felony or misdemeanor has been committed, knowing the report to be false, is guilty of a misdemeanor. This subdivision shall not be construed as prohibiting or precluding a charge of perjury or contempt for any report made under oath in an investigation or proceeding before a grand jury.

(e) This section does not apply to reports made by persons who are required by statute to report known or suspected instances of child abuse, dependent adult abuse, or elder abuse.

(Amended Sec. 2, Ch. 760, Stats. 1998. Effective January 1, 1999.)

Bringing Loaded Firearm to Residences or Adjoining Grounds of State Officials

171d. Any person, except a duly appointed peace officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, full-time paid peace officer of another state or the federal government who is carrying out official duties while in California, or any person summoned by any such officer to assist in making arrests or preserving the peace while he is actually engaged in assisting such officer, or a member of the military forces of this state or of the United States engaged in the performance of his duties, a person holding a valid license to carry the firearm pursuant to Article 3 (commencing with Section 12050) of Chapter 1 of Title 2 of Part 4 of the Penal Code, or the Governor or a member of his immediate family or a person acting with his permission with respect to the Governor's Mansion or any other residence of the Governor, any other constitutional officer or a member of his immediate family or a person acting with his permission with respect to such officer's residence, or a Member of the Legislature or a member of his immediate family or a person acting with his permission with respect to such legislator's residence, shall be punished by imprisonment in the county jail for not more than one year, or by fine of not more than one thousand dollars ($1,000), or by both such fine and imprisonment, or by imprisonment in the state prison, if he does any of the following:

1. Brings a loaded firearm into, or possesses a loaded firearm within, the Governor's Mansion, or any other residence of the Governor, the residence of any other constitutional officer, or the residence of any Member of the Legislature.

2. Brings a loaded firearm upon, or possesses a loaded firearm upon, the grounds of the Governor's Mansion or any other residence of the Governor, the residence of any other constitutional officer, or the residence of any Member of the Legislature.

(Amended Ch. 1139, Stats. 1976. Operative July 1, 1977. Supersedes Ch. 1125.)

Loaded Firearm Defined

171e. A firearm shall be deemed loaded for the purposes of Sections 171c and 171d whenever both the firearm and unexpended ammunition capable of being discharged from such firearm are in the immediate possession of the same person.

In order to determine whether or not a firearm is loaded for the purpose of enforcing Section 171c or 171d, peace officers are authorized to examine any firearm carried by anyone on his person or in a vehicle while in any place or on the grounds or any place in or on which the possession of a loaded firearm is prohibited by Section 171c or 171d. Refusal to allow a peace officer to inspect a firearm pursuant to the provisions of this section constitutes probable cause for arrest for violation of Section 171c or 171d.

(Added Ch. 960, Stats. 1967. Effective July 28, 1967.)

Manslaughter

191.5. (a) Gross vehicular manslaughter while intoxicated is the unlawful killing of a human being without malice aforethought, in the driving of a vehicle, where the driving was in violation of Section 23140, 23152, or 23153 of the Vehicle Code, and the killing was either the proximate result of the commission of an unlawful act, not amounting to a felony, and with gross negligence, or the proximate result of the commission of a lawful act which might produce death, in an unlawful manner, and with gross negligence.

(b) Gross vehicular manslaughter while intoxicated also includes operating a vessel in violation of subdivision (b), (c), (d), (e), or (f) of Section 655 of the Harbors and Navigation Code, and in the commission of an unlawful act, not amounting to felony, and with gross negligence; or operating a vessel in violation of subdivision (b), (c), (d), (e), or (f) of Section 655 of the Harbors and Navigation Code, and in the commission of a lawful act which might produce death, in an unlawful manner, and with gross negligence.

(c) Except as provided in subdivision (d), gross vehicular manslaughter while intoxicated is punishable by imprisonment in the state prison for 4, 6, or 10 years.

(d) Any person convicted of violating this section who has one or more prior convictions of this section or of paragraph (1) or (3) of subdivision (c) of Section 192, subdivision (a) or (c) of Section 192.5 of this code, or of violating Section 23152 punishable under Sections 23540, 23542, 23546, 23548, 23550, or 23552 of, or convicted of Section 23153 of, the Vehicle Code, shall be punished by imprisonment in the state prison for a term of 15 years to life. Article 2.5 (commencing with Section 2930) of Chapter 7 of Title 1 of Part 3 shall apply to reduce the term imposed pursuant to this subdivision.

(e) This section shall not be construed as prohibiting or precluding a charge of murder under Section 188 upon facts exhibiting wantonness and a conscious disregard for life to support a finding of implied malice, or upon facts showing malice consistent with the holding of the California Supreme Court in People v. Watson, 30 Cal. 3d 290.

(f) This section shall not be construed as making any homicide in the driving of a vehicle or the operation of a vessel punishable which is not a proximate result of the commission of an unlawful act, not amounting to felony, or of the commission of a lawful act which might produce death, in an unlawful manner.

(g) For the penalties in subdivision (d) to apply, the existence of any fact required under subdivision (d) shall be alleged in the

information or indictment and either admitted by the defendant in open court or found to be true by the trier of fact.

(Amended Sec. 1, Ch. 622, Stats. 2002. Effective January 1, 2003.)

192. Manslaughter is the unlawful killing of a human being without malice. It is of three kinds:

(a) Voluntary—upon a sudden quarrel or heat of passion.

(b) Involuntary—in the commission of an unlawful act, not amounting to felony; or in the commission of a lawful act which might produce death, in an unlawful manner, or without due caution and circumspection. This subdivision shall not apply to acts committed in the driving of a vehicle.

(c) Vehicular—

(1) Except as provided in Section 191.5, driving a vehicle in the commission of an unlawful act, not amounting to felony, and with gross negligence; or driving a vehicle in the commission of a lawful act which might produce death, in an unlawful manner, and with gross negligence.

(2) Except as provided in paragraph (3), driving a vehicle in the commission of an unlawful act, not amounting to felony, but without gross negligence; or driving a vehicle in the commission of a lawful act which might produce death, in an unlawful manner, but without gross negligence.

(3) Driving a vehicle in violation of Section 23140, 23152, or 23153 of the Vehicle Code and in the commission of an unlawful act, not amounting to felony, but without gross negligence; or driving a vehicle in violation of Section 23140, 23152, or 23153 of the Vehicle Code and in the commission of a lawful act which might produce death, in an unlawful manner, but without gross negligence.

(4) Driving a vehicle in connection with a violation of paragraph (3) of subdivision (a) of Section 550, where the vehicular collision or vehicular accident was knowingly caused for financial gain and proximately resulted in the death of any person. This provision shall not be construed to prevent prosecution of a defendant for the crime of murder.

This section shall not be construed as making any homicide in the driving of a vehicle punishable which is not a proximate result of the commission of an unlawful act, not amounting to felony, or of the commission of a lawful act which might produce death, in an unlawful manner.

"Gross negligence," as used in this section, shall not be construed as prohibiting or precluding a charge of murder under Section 188 upon facts exhibiting wantonness and a conscious disregard for life to support a finding of implied malice, or upon facts showing malice, consistent with the holding of the California Supreme Court in People v. Watson, 30 Cal. 3d 290.

(Amended Sec. 1, Ch. 278, Stats. 1998. Effective January 1, 1999.)

192.5. Vehicular manslaughter pursuant to subdivision (c) of Section 192 includes:

(a) Except as provided in subdivision (b) of Section 191.5, operating a vessel in the commission of an unlawful act, not amounting to felony, and with gross negligence; or operating a vessel in the commission of a lawful act which might produce death, in an unlawful manner, and with gross negligence.

(b) Except as provided in subdivision (c), operating a vessel in the commission of an unlawful act, not amounting to felony, but without gross negligence; or operating a vessel in the commission of a lawful act which might produce death, in an unlawful manner, but without gross negligence.

(c) Operating a vessel in violation of subdivision (b), (c), (d), (e), or (f) of Section 655 of the Harbors and Navigation Code, and in the commission of an unlawful act, not amounting to felony, but without gross negligence; or operating a vessel in violation of subdivision (b), (c), (d), (e), or (f) of Section 655 of the Harbors and Navigation Code, and in the commission of a lawful act which might produce death, in an unlawful manner, but with gross negligence.

(d) This section shall become operative on January 1, 1992.

(Added Ch. 1698, Stats. 1990. Effective January 1, 1991. Operative January 1, 1992.)

193. (a) Voluntary manslaughter is punishable by imprisonment in the state prison for three, six, or eleven years.

(b) Involuntary manslaughter is punishable by imprisonment in the state prison for two, three, or four years.

(c) Vehicular manslaughter is punishable as follows:

(1) A violation of paragraph (1) of subdivision (c) of Section 192 is punishable either by imprisonment in the county jail for not more than one year or by imprisonment in the state prison for two, four, or six years.

(2) A violation of paragraph (2) of subdivision (c) of Section 192 is punishable by imprisonment in the county jail for not more than one year.

(3) A violation of paragraph (3) of subdivision (c) of Section 192 is punishable either by imprisonment in the county jail for not more than one year or by imprisonment in the state prison for 16 months or two or four years.

(4) A violation of paragraph (4) of subdivision (c) of Section 192 is punishable by imprisonment in the state prison for 4, 6, or 10 years.

(Amended Sec. 2, Ch. 278, Stats. 1998. Effective January 1, 1999.)

193.5. Manslaughter committed during the operation of a vessel is punishable as follows:

(a) A violation of subdivision (a) of Section 192.5 is punishable either by imprisonment in the county jail for not more than one year or by imprisonment in the state prison for two, four, or six years.

(b) A violation of subdivision (b) of Section 192.5 is punishable by imprisonment in the county jail for not more than one year.

(c) A violation of subdivision (c) of Section 192.5 is punishable either by imprisonment in the county jail for not more than one year or by imprisonment in the state prison for 16 months or two or four years.

(Amended Ch. 216, Stats. 1988. Effective January 1, 1989.)

Habitual Traffic Offender

193.7. Any person convicted of a violation of paragraph (3) of subdivision (c) of Section 192 which occurred within seven years of two or more separate violations of Section 23103, as specified in Section 23103.5, of, or Section 23152 or 23153 of, the Vehicle Code, or any combination thereof, which resulted in convictions, shall be designated as an habitual traffic offender subject to paragraph (3) of subdivision (e) of Section 14601.3 of the Vehicle Code, for a period of three years, subsequent to the conviction. The person shall be advised of this designation pursuant to subdivision (b) of Section 13350 of the Vehicle Code.

(Amended Sec. 3, Ch. 22, Stats. 1999. Effective May 26, 1999. Operative July 1, 1999.)

193.8. (a) It is unlawful for any adult who is the registered owner of a motor vehicle or in possession of a motor vehicle to relinquish possession of the vehicle to a minor for the purpose of driving if the following conditions exist:

(1) The adult owner or person in possession of the vehicle knew or reasonably should have known that the minor was intoxicated at the time possession was relinquished.

(2) A petition was sustained or the minor was convicted of a violation of Section 23103 as specified in Section 23103.5, 23140, 23152, or 23153 of the Vehicle Code or a violation of Section 191.5 or paragraph (3) of subdivision (c) of Section 192.

(3) The minor does not otherwise have a lawful right to possession of the vehicle.

(b) The offense described in subdivision (a) shall not apply to commercial bailments, motor vehicle leases, or parking arrangements, whether or not for compensation, provided by hotels, motels, or food facilities for customers, guests, or other invitees thereof. For purposes of this subdivision, hotel and motel shall have the same meaning as in subdivision (b) of Section 25503.16 of the Business and Professions Code and food facility shall have the same meaning as in Section 113785 of the Health and Safety Code.

(c) If any adult is convicted of the offense described in subdivision (a), that person shall be punished by a fine not exceeding one thousand dollars ($1,000), or by imprisonment in a county jail not exceeding six months, or by both the fine and imprisonment. Any adult convicted of the offense described in subdivision (a) shall not be subject to driver's license suspension or revocation or attendance at a licensed alcohol or drug education and counseling program for persons who drive under the influence.

(Amended Sec. 386, Ch. 1023, Stats. 1996. Effective September 29, 1996.)

Throwing Objects at Common Carrier Vehicles

219.1. Every person who unlawfully throws, hurls or projects at a vehicle operated by a common carrier, while such vehicle is either in motion or stationary, any rock, stone, brick, bottle, piece of wood or metal or any other missile of any kind or character, or does any unlawful act, with the intention of wrecking such vehicle and doing bodily harm, and thus wrecks the same and causes bodily harm, is guilty of a felony and punishable by imprisonment in the state prison for two, four, or six years.

(Amended Ch. 579, Stats. 1978. Effective January 1, 1979.)

246. Any person who shall maliciously and willfully discharge a firearm at an inhabited dwelling house, occupied building, occupied motor vehicle, occupied aircraft, inhabited housecar, as defined in Section 362 of the Vehicle Code, or inhabited camper, as defined in Section 243 of the Vehicle Code, is guilty of a felony, and upon conviction shall be punished by imprisonment in the state prison for three, five, or seven years, or by imprisonment in the county jail for a term of not less than six months and not exceeding one year.

As used in this section, "inhabited" means currently being used for dwelling purposes, whether occupied or not.

(Amended Ch. 911, Stats. 1988. Effective September 15, 1988.)

246.1. (a) Except as provided in subdivision (f), upon the conviction of any person found guilty of murder in the first or second degree, manslaughter, attempted murder, assault with a deadly weapon, the unlawful discharge or brandishing of a firearm from or at an occupied vehicle where the victim was killed, attacked, or assaulted from or in a motor vehicle by the use of a firearm on a public street or highway, or the unlawful possession of a firearm by a member of a criminal street gang, as defined in subdivision (f) of Section 186.22, while present in a vehicle the court shall order a vehicle used in the commission of that offense sold.

Any vehicle ordered to be sold pursuant to this subdivision shall be surrendered to the sheriff of the county or the chief of police of the city in which the violation occurred. The officer to whom the vehicle is surrendered shall promptly ascertain from the Department of Motor Vehicles the names and addresses of all legal and registered owners of the vehicle and within five days of receiving that information, shall send by certified mail a notice to all legal and registered owners of the vehicle other than the defendant, at the addresses obtained from the department, informing them that the vehicle has been declared a nuisance and will be sold or otherwise disposed of pursuant to this section, and of the approximate date and location of the sale or other disposition. The notice shall also inform any legal owner of its right to conduct the sale pursuant to subdivision (b).

(b) Any legal owner which in the regular course of its business conducts sales of repossessed or surrendered motor vehicles may take possession and conduct the sale of the vehicle if it notifies the officer to whom the vehicle is surrendered of its intent to conduct the sale within 15 days of the mailing of the notice pursuant to subdivision (a). Sale of the vehicle pursuant to this subdivision may be conducted at the time, in the manner, and on the notice usually given by the legal owner for the sale of repossessed or surrendered vehicles. The proceeds of any sale conducted by the legal owner shall be disposed of as provided in subdivision (d).

(c) If the legal owner does not notify the officer to whom the vehicle is surrendered of its intent to conduct the sale as provided in subdivision (b), the officer shall offer the vehicle for sale at public auction within 60 days of receiving the vehicle. At least 10 days but not more than 20 days prior to the sale, not counting the day of sale, the officer shall give notice of the sale by advertising once in a newspaper of general circulation published in the city or county, as the case may be, in which the vehicle is located, which notice shall contain a description of the make, year, model, identification number, and license number of the vehicle, and the date, time, and location of the sale. For motorcycles, the engine number shall also be included. If there is no newspaper of general circulation published in the county, notice shall be given by posting a notice of sale containing the information required by this subdivision in three of the most public places in the city or county in which the vehicle is located and at the place where the vehicle is to be sold for 10 consecutive days prior to and including the day of the sale.

(d) The proceeds of a sale conducted pursuant to this section shall be disposed of in the following priority:

(1) To satisfy the costs of the sale, including costs incurred with respect to the taking and keeping of the vehicle pending sale.

(2) To the legal owner in an amount to satisfy the indebtedness owed to the legal owner remaining as of the date of sale, including accrued interest or finance charges and delinquency charges.

(3) To the holder of any subordinate lien or encumbrance on the vehicle to satisfy any indebtedness so secured if written notification of demand is received before distribution of the proceeds is completed. The holder of a subordinate lien or encumbrance, if requested, shall reasonably furnish reasonable proof of its interest, and unless it does so on request is not entitled to distribution pursuant to this paragraph.

(4) To any other person who can establish an interest in the vehicle, including a community property interest, to the extent of his or her provable interest.

(5) The balance, if any, to the city or county in which the violation occurred, to be deposited in a special account in its general fund to be used exclusively to pay the costs or a part of the costs of providing services or education to prevent juvenile violence.

The person conducting the sale shall disburse the proceeds of the sale as provided in this subdivision, and provide a written accounting regarding the disposition to all persons entitled to or claiming a share of the proceeds, within 15 days after the sale is conducted.

(e) If the vehicle to be sold under this section is not of the type that can readily be sold to the public generally, the vehicle shall be destroyed or donated to an eleemosynary institution.

(f) No vehicle may be sold pursuant to this section in either of the following circumstances:

(1) The vehicle is stolen, unless the identity of the legal and registered owners of the vehicle cannot be reasonably ascertained.

(2) The vehicle is owned by another, or there is a community property interest in the vehicle owned by a person other than the defendant and the vehicle is the only vehicle available to the defendant's immediate family which may be operated on the highway with a class 3 or class 4 driver's license.

(g) A vehicle is used in the commission of a violation of the offenses enumerated in subdivision (a) if a firearm is discharged either from the vehicle at another person or by an occupant of a vehicle other than the vehicle in which the victim is an occupant.

(Amended Ch. 33, Stats. 1994. Effective November 30, 1994.)

Shooting at Aircraft

247. (a) Any person who willfully and maliciously discharges a firearm at an unoccupied aircraft is guilty of a felony.

(b) Any person who discharges a firearm at an unoccupied motor vehicle or an uninhabited building or dwelling house is guilty of a public offense punishable by imprisonment in the county jail for not more than one year or in the state prison. This subdivision does not apply to shooting at an abandoned vehicle, unoccupied vehicle, uninhabited building, or dwelling house with the permission of the owner.

As used in this section and Section 246 "aircraft" means any contrivance intended for and capable of transporting persons through the airspace.

(Amended Ch. 911, Stats. 1988. Effective September 15, 1988.)

Railroad Right-of-Way, Trespassing On

369g. (a) Any person who rides, drives, or propels any vehicle upon and along the track of any railroad through or over its private right of way, without the authorization of its superintendent or other officer in charge thereof, is guilty of a misdemeanor.

(b) Any person who rides, drives, or propels any vehicle upon and along the track of any railline owned or operated by a county transportation commission or transportation authority without the authorization of the commission or authority is guilty of a misdemeanor.

(Amended Ch. 722, Stats. 1993. Effective January 1, 1994.)

Public Nuisance

370. Any thing which is injurious to health, or is indecent, or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property by an entire community or neighborhood, or by any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin, or any public park, square, street, or highway, is a public nuisance.

(Amended Ch. 614, Stats. 1873.)

Shooting Firearms From a Public Highway

374c. Every person who shoots any firearm from or upon a public road or highway is guilty of a misdemeanor.

417.3. Every person who, except in self-defense, in the presence of any other person who is an occupant of a motor vehicle proceeding on a public street or highway, draws or exhibits any firearm, whether loaded or unloaded, in a threatening manner against another person in such a way as to cause a reasonable person apprehension or fear of bodily harm is guilty of a felony punishable by imprisonment in the state prison for 16 months or two or three years or by imprisonment for 16 months or two or three years and a three thousand dollar ($3,000) fine.

Nothing in this section shall preclude or prohibit prosecution under any other statute.

(Added Ch. 1433, Stats. 1987. Effective January 1, 1988.)

Master Keys

466.5. (a) Every person who, with the intent to use it in the commission of an unlawful act, possesses a motor vehicle master key or a motor vehicle wheel lock master key is guilty of a misdemeanor.

(b) Every person who, with the intent to use it in the commission of an unlawful act, uses a motor vehicle master key to open a lock or operate the ignition switch of any motor vehicle or uses a motor vehicle wheel lock master key to open a wheel lock on any motor vehicle is guilty of a misdemeanor.

(c) Every person who knowingly manufactures for sale, advertises for sale, offers for sale, or sells a motor vehicle master key or a motor vehicle wheel lock master key, except to persons who use such keys in their lawful occupations or businesses, is guilty of a misdemeanor.

(d) As used in this section:

(1) "Motor vehicle master key" means a key which will operate all the locks or ignition switches, or both the locks and ignition switches, in a given group of motor vehicle locks or motor vehicle ignition switches, or both motor vehicle locks and motor vehicle ignition switches, each of which can be operated by a key which will not operate one or more of the other locks or ignition switches in such group.

(2) "Motor vehicle wheel lock" means a device attached to a motor vehicle wheel for theft protection purposes which can be removed only by a key unit unique to the wheel lock attached to a particular motor vehicle.

(3) "Motor vehicle wheel lock master key" means a key unit which will operate all the wheel locks in a given group of motor vehicle wheel locks, each of which can be operated by a key unit which will not operate any of the other wheel locks in the group.

(Amended Ch. 138, Stats. 1976. Effective May 5, 1976.)

466.9. (a) Every person who possesses a code grabbing device, with the intent to use it in the commission of an unlawful act, is guilty of a misdemeanor.

(b) Every person who uses a code grabbing device to disarm the security alarm system of a motor vehicle, with the intent to use it in the commission of an unlawful act, is guilty of a misdemeanor.

(c) As used in this section, "code grabbing device" means a device that can receive and record the coded signal sent by the transmitter of a motor vehicle security alarm system and can play back the signal to disarm that system.

(Amended and Renumbered Sec. 124, Ch. 91, Stats. 1995. Effective January 1, 1996.)

470. (a) Every person who, with the intent to defraud, knowing that he or she has no authority to do so, signs the name of another person or of a fictitious person to any of the items listed in subdivision (d) is guilty of forgery.

(b) Every person who, with the intent to defraud, counterfeits or forges the seal or handwriting of another is guilty of forgery.

(c) Every person who, with the intent to defraud, alters, corrupts, or falsifies any record of any will, codicil, conveyance, or other instrument, the record of which is by law evidence, or any record of any judgment of a court or the return of any officer to any process of any court, is guilty of forgery.

(d) Every person who, with the intent to defraud, falsely makes, alters, forges, or counterfeits, utters, publishes, passes or attempts or offers to pass, as true and genuine, any of the following items, knowing the same to be false, altered, forged, or counterfeited, is guilty of forgery: any check, bond, bank bill, or note, cashier's check, traveler's check, money order, post note, draft, any controller's warrant for the payment of money at the treasury, county order or warrant, or request for the payment of money, receipt for money or goods, bill of exchange, promissory note, order, or any assignment of any bond, writing obligatory, or other contract for money or other property, contract, due bill for payment of money or property, receipt for money or property, passage ticket, lottery ticket or share purporting to be issued under the California State Lottery Act of 1984, trading stamp, power of attorney, certificate of ownership or other document evidencing ownership of a vehicle or undocumented vessel, or any certificate of any share, right, or interest in the stock of any corporation or association, or the delivery of goods or chattels of any kind, or for the delivery of any instrument of writing, or acquittance, release or discharge of any debt, account, suit, action, demand, or any other thing, real or personal, or any transfer or assurance of money, certificate of shares of stock, goods, chattels, or other property whatever, or any letter of attorney, or other power to receive money, or to receive or transfer certificates of shares of stock or annuities, or to let, lease, dispose of, alien, or convey any goods, chattels, lands, or tenements, or other estate, real or personal***, or falsifies the acknowledgment of any notary public, or any notary public who issues an acknowledgment knowing it to be false***; or any matter described in subdivision (b).

(e) Upon a trial for forging any bill or note purporting to be the bill or note of an incorporated company or bank, or for passing, or attempting to pass, or having in possession with intent to pass, any forged bill or note, it is not necessary to prove the incorporation of the bank or company by the charter or act of incorporation, but it may be proved by general reputation; and persons of skill are competent witnesses to prove that the bill or note is forged or counterfeited.

(Amended Sec. 5, Ch. 295, Stats. 2005. Effective January 1, 2006.)

Forgery of Driver's License or Identification Card

470a. Every person who alters, falsifies, forges, duplicates or in any manner reproduces or counterfeits any driver's license or identification card issued by a governmental agency with the intent that such driver's license or identification card be used to facilitate the commission of any forgery, is punishable by imprisonment in the state prison, or by imprisonment in the county jail for not more than one year.

(Amended Ch. 1139, Stats. 1976. Operative July 1, 1977.)

Possession of Forged Driver's License or Identification Card

470b. Every person who displays or causes or permits to be displayed or has in his possession any driver's license or identification card of the type enumerated in Section 470a with the intent that such driver's license or identification card be used to facilitate the commission of any forgery, is punishable by imprisonment in the state prison, or by imprisonment in the county jail for not more than one year.

(Amended Ch. 1139, Stats. 1976. Operative July 1, 1977.)

Theft by Fraud

484. (a) Every person who shall feloniously steal, take, carry, lead, or drive away the personal property of another, or who shall fraudulently appropriate property which has been entrusted to him or her, or who shall knowingly and designedly, by any false or fraudulent representation or pretense, defraud any other person of money, labor or real or personal property, or who causes or procures others to report falsely of his or her wealth or mercantile character and by thus imposing upon any person, obtains credit and thereby fraudulently gets or obtains possession of money, or property or obtains the labor or service of another, is guilty of theft. In determining the value of the property obtained, for the purposes of this section, the reasonable and fair market value shall be the test, and in determining the value of services received the contract price shall be the test. If there be no contract price, the reasonable and going wage for the service rendered shall govern. For the purposes of this section, any false or fraudulent representation or pretense made shall be treated as continuing, so as to cover any money, property or service received as a result thereof, and the complaint, information or indictment may charge that the crime was committed on any date during the particular period in question. The hiring of any additional employee or employees without advising each of them of every labor claim due and unpaid and every judgment that the employer has been unable to meet shall be prima facie evidence of intent to defraud.

(b) (1) Except as provided in Section 10855 of the Vehicle Code, where a person has leased or rented the personal property of another person pursuant to a written contract, and that property has a value greater than one thousand dollars ($1,000) and is not a commonly used household item, intent to commit theft by fraud shall be rebuttably presumed if the person fails to return the personal property to its owner within 10 days after the owner has made written demand by certified or registered mail following the expiration of the lease or rental agreement for return of the property so leased or rented. .

(2) Except as provided in Section 10855 of the Vehicle Code, where a person has leased or rented the personal property of another person pursuant to a written contract, and where the property has a value no greater than one thousand dollars ($1,000), or where the property is a commonly used household item, intent to commit theft by fraud shall be rebuttably presumed if the person fails to return the personal property to its owner within 20 days after the owner has

made written demand by certified or registered mail following the expiration of the lease or rental agreement for return of the property so leased or rented.

(c) Notwithstanding the provisions of subdivision (b), if one presents with criminal intent identification which bears a false or fictitious name or address for the purpose of obtaining the lease or rental of the personal property of another, the presumption created herein shall apply upon the failure of the lessee to return the rental property at the expiration of the lease or rental agreement, and no written demand for the return of the leased or rented property shall be required. .

(d) The presumptions created by subdivisions (b) and (c) are presumptions affecting the burden of producing evidence. .

(e) Within 30 days after the lease or rental agreement has expired, the owner shall make written demand for return of the property so leased or rented. Notice addressed and mailed to the lessee or renter at the address given at the time of the making of the lease or rental agreement and to any other known address shall constitute proper demand. Where the owner fails to make such written demand the presumption created by subdivision (b) shall not apply.

(Amended Sec. 1, Ch. 236, Stats. 2000. Effective January 1, 2001.)

Theft: Vehicles: Receipt of Stolen Property

496d. (a) Every person who buys or receives any motor vehicle, as defined in Section 415 of the Vehicle Code, any trailer, as defined in Section 630 of the Vehicle Code, any special construction equipment, as defined in Section 565 of the Vehicle Code, or any vessel, as defined in Section 21 of the Harbors and Navigation Code, that has been stolen or that has been obtained in any manner constituting theft or extortion, knowing the property to be stolen or obtained, or who conceals, sells, withholds, or aids in concealing, selling, or withholding any motor vehicle, trailer, special construction equipment, or vessel from the owner, knowing the property to be so stolen or obtained, shall be punished by imprisonment in the state prison for 16 months or two or three years or a fine of not more than ten thousand dollars ($10,000), or both, or by imprisonment in a county jail not to exceed one year or a fine of not more than one thousand dollars ($1,000), or both.

(b) For the purposes of this section, the terms "special construction equipment" and "vessel" are limited to motorized vehicles and vessels.

(Added Sec. 1, Ch. 710, Stats. 1998. Effective January 1, 1999.)

499. (a) Any person who, having been convicted of a previous violation of Section 10851 of the Vehicle Code, or of subdivision (d) of Section 487, involving a vehicle or vessel, and having served a term therefor in any penal institution or having been imprisoned therein as a condition of probation for the offense, is subsequently convicted of a violation of Section 499b, involving a vehicle or vessel, is punishable for the subsequent offense by imprisonment in the county jail not exceeding one year or the state prison for 16 months, two, or three years.

(b) Any person convicted of a violation of Section 499b, who has been previously convicted under charges separately brought and tried two or more times of a violation of Section 499b, all such violations involving a vehicle or vessel, and who has been imprisoned therefore as a condition of probation or otherwise at least once, is punishable by imprisonment in the county jail for not more than one year or in the state prison for 16 months, two, or three years.

(c) This section shall become operative on January 1, 1997.

(Added Ch. 1125 Stats. 1993. Effective October 11, 1993. Operative January 1, 1997.)

False Identification Document

529a. Every person who manufactures, produces, sells, offers, or transfers to another any document purporting to be either a certificate of birth or certificate of baptism, knowing such document to be false or counterfeit and with the intent to deceive, is guilty of a crime, and upon conviction therefor, shall be punished by imprisonment in the county jail not to exceed one year, or by imprisonment in the state prison. Every person who offers, displays, or has in his or her possession any false or counterfeit certificate of birth or certificate of baptism, or any genuine certificate of birth which describes a person then living or deceased, with intent to represent himself or herself as another or to conceal his or her true identity, is guilty of a crime, and upon conviction therefor, shall be punished by imprisonment in the county jail not to exceed one year.

(Amended Ch. 1477, Stats. 1987. Effective January 1, 1988.)

Deceptive Identification Document

529.5. (a) Every person who manufactures, sells, offers for sale, or transfers any document, not amounting to counterfeit, purporting to be a government-issued identification card or driver's license, which by virtue of the wording or appearance thereon could reasonably deceive an ordinary person into believing that it is issued by a government agency, and who knows that the document is not a government-issued document, is guilty of a misdemeanor, punishable by imprisonment in a country jail not exceeding one year, or by a fine not exceeding one thousand dollars ($1,000), or by both the fine and imprisonment.

(b) Any person who, having been convicted of a violation of subdivision (a), is subsequently convicted of a violation of subdivision (a), is punishable for the subsequent conviction by imprisonment in a county jail not exceeding one year, or by a fine not exceeding five thousand dollars ($5,000), or by both the fine and imprisonment.

(c) Any person who possesses a document described in subdivision (a) and who knows that the document is not a government-issued document is guilty of a misdemeanor punishable by a fine of not less than one thousand dollars ($1,000) and not more than two thousand five hundred dollars ($2,500). The misdemeanor fine shall be imposed except in unusual cases where the interest of justice would be served. The court may allow an offender to work off the fine by doing community service. If community service work is not available, the misdemeanor shall be punishable by a fee of up to one thousand dollars ($1,000), based on the person's ability to pay.

(d) If an offense specified in this section is committed by a person when he or she is under 21 years of age, but is 13 years of age or older, the court also may suspend the person's driving privilege for one year, pursuant to Section 13202.5 of the Vehicle Code.

(Amended Ch. 960, Stats. 1990. Effective January 1, 1991.)

529.7. Any person who obtains, or assists another person in obtaining, a driver's license, identification card, vehicle registration certificate, or any other official document issued by the Department of Motor Vehicles, with knowledge that the person obtaining the document is not entitled to the document, is guilty of a misdemeanor, and is punishable by imprisonment in a county jail for up to one year, or a fine of up to one thousand dollars ($1,000), or both.

(Added Sec. 2, Ch. 907, Stats. 2002. Effective January 1, 2003.)

530.5. (a) Every person who willfully obtains personal identifying information, as defined in subdivision (b), of another person, and uses that information for any unlawful purpose, including to obtain, or attempt to obtain, credit, goods, services, or medical information in the name of the other person without the consent of that person, is guilty of a public offense, and upon conviction therefor, shall be punished either by imprisonment in a county jail not to exceed one year, a fine not to exceed one thousand dollars ($1,000), or both that imprisonment and fine, or by imprisonment in the state prison, a fine not to exceed ten thousand dollars ($10,000), or both that imprisonment and fine.

(b) "Personal identifying information," as used in this section, means the name, address, telephone number, health insurance identification number, taxpayer identification number, school identification number, state or federal driver"s license number, or identification number, social security number, place of employment, employee identification number, mother's maiden name, demand deposit account number, savings account number, checking account number, PIN (personal identification number) or password, alien registration number, government passport number, date of birth, unique biometric data including fingerprint, facial scan identifiers, voice print, retina or iris image, or other unique physical representation, unique electronic data including identification number, address, or routing code, telecommunication identifying information or access device, information contained in a birth or death certificate, or credit card number of an individual person.

(c) In any case in which a person willfully obtains personal identifying information of another person, uses that information to commit a crime in addition to a violation of subdivision (a), and is convicted of that crime, the court records shall reflect that the person whose identity was falsely used to commit the crime did not commit the crime.

(d) Every person who, with the intent to defraud, acquires, transfers, or retains possession of the personal identifying information, as defined in subdivision (b), of another person is guilty of a public offense, and upon conviction therefor, shall be punished by

imprisonment in a county jail not to exceed one year, or a fine not to exceed one thousand dollars ($1,000), or by both that imprisonment and fine.

(Amended Sec. 1, Ch. 254, Stats. 2002. Effective January 1, 2003.)

530.6. (a) A person who has learned or reasonably suspects that his or her personal identifying information has been unlawfully used by another, as described in subdivision (a) of Section 530.5, may initiate a law enforcement investigation by contacting the local law enforcement agency that has jurisdiction over his or her actual residence, which shall take a police report of the matter, provide the complainant with a copy of that report, and begin an investigation of the facts. If the suspected crime was committed in a different jurisdiction, the local law enforcement agency may refer the matter to the law enforcement agency where the suspected crime was committed for further investigation of the facts.

(b) A person who reasonably believes that he or she is the victim of identity theft may petition a court, or the court, on its own motion or upon application of the prosecuting attorney, may move, for an expedited judicial determination of his or her factual innocence, where the perpetrator of the identity theft was arrested for, cited for, or convicted of a crime under the victim's identity, or where a criminal complaint has been filed against the perpetrator in the victim's name, or where the victim's identity has been mistakenly associated with a record of criminal conviction. Any judicial determination of factual innocence made pursuant to this section may be heard and determined upon declarations, affidavits, police reports, or other material, relevant, and reliable information submitted by the parties or ordered to be part of the record by the court. Where the court determines that the petition or motion is meritorious and that there is no reasonable cause to believe that the victim committed the offense for which the perpetrator of the identity theft was arrested, cited, convicted, or subject to a criminal complaint in the victim's name, or that the victim's identity has been mistakenly associated with a record of criminal conviction, the court shall find the victim factually innocent of that offense. If the victim is found factually innocent, the court shall issue an order certifying this determination.

(c) After a court has issued a determination of factual innocence pursuant to this section, the court may order the name and associated personal identifying information contained in court records, files, and indexes accessible by the public deleted, sealed, or labeled to show that the data is impersonated and does not reflect the defendant's identity.

(d) A court that has issued a determination of factual innocence pursuant to this section may at any time vacate that determination if the petition, or any information submitted in support of the petition, is found to contain any material misrepresentation or fraud.

(e) The Judicial Council of California shall develop a form for use in issuing an order pursuant to this section.

(Amended Sec. 6, Ch. 533, Stats. 2003. Effective January 1, 2004.)

530.7. (a) In order for a victim of identity theft to be included in the data base established pursuant to subdivision (c), he or she shall submit to the Department of Justice a court order obtained pursuant to any provision of law, a full set of fingerprints, and any other information prescribed by the department.

(b) Upon receiving information pursuant to subdivision (a), the Department of Justice shall verify the identity of the victim against any driver's license or other identification record maintained by the Department of Motor Vehicles.

(c) The Department of Justice shall establish and maintain a data base of individuals who have been victims of identity theft. The department shall provide a victim of identity theft or his or her authorized representative access to the data base in order to establish that the individual has been a victim of identity theft. Access to the data base shall be limited to criminal justice agencies, victims of identity theft, and individuals and agencies authorized by the victims.

(d) The Department of Justice shall establish and maintain a toll-free telephone number to provide access to information under subdivision (c).

(e) This section shall be operative September 1, 2001.

(Amended Sec. 30, Ch. 854, Stats. 2001. Effective September 1, 2001.)

Unlawful Subleasing

570. An act of unlawful subleasing of a motor vehicle, as defined in Section 571, shall be punishable by imprisonment in the state prison or in the county jail for not more than one year, or by a fine of not more than ten thousand dollars ($10,000), or by both that fine and imprisonment.

571. (a) A person engages in an act of unlawful subleasing of a motor vehicle if all of the following conditions are met:

(1) The motor vehicle is subject to a lease contract, conditional sale contract, or security agreement the terms of which prohibit the transfer or assignment of any right or interest in the motor vehicle or under the lease contract, conditional sale contract, or security agreement.

(2) The person is not a party to the lease contract, conditional sale contract, or security agreement.

(3) The person transfers or assigns, or purports to transfer or assign, any right or interest in the motor vehicle or under the lease contract, conditional sale contract, or security agreement, to any person who is not a party to the lease contract, conditional sale contract, or security agreement.

(4) The person does not obtain, prior to the transfer or assignment described in paragraph (3), written consent to the transfer or assignment from the motor vehicle's lessor, seller, or secured party.

(5) The person receives compensation or some other consideration for the transfer or assignment described in paragraph (3).

(b) A person engages in an act of unlawful subleasing of a motor vehicle when the person is not a party to the lease contract, conditional sale contract, or security agreement, and assists, causes, or arranges an actual or purported transfer or assignment, as described in subdivision (a).

572. (a) The actual or purported transfer or assignment, or the assisting, causing, or arranging of an actual or purported transfer or assignment, of any right or interest in a motor vehicle or under a lease contract, conditional sale contract, or security agreement, by an individual who is a party to the lease contract, conditional sale contract, or security agreement is not an act of unlawful subleasing of a motor vehicle and is not subject to prosecution.

(b) This chapter shall not affect the enforceability of any provision of any lease contract, conditional sale contract, security agreement, or direct loan agreement by any party thereto.

573. (a) The penalties under this chapter are in addition to any other remedies or penalties provided by law for the conduct proscribed by this chapter.

(b) If any provision of this chapter or the application thereof to any person or circumstance is held to be unconstitutional, the remainder of the chapter and the application of its provisions to other persons and circumstances shall not be affected thereby.

574. As used in this chapter, the following terms have the following meanings:

(a) "Buyer" has the meaning set forth in subdivision (c) of Section 2981 of the Civil Code.

(b) "Conditional sale contract" has the meaning set forth in subdivision (a) of Section 2981 of the Civil Code. Notwithstanding subdivision (k) of Section 2981 of the Civil Code, "conditional sale contract" includes any contract for the sale or bailment of a motor vehicle between a buyer and a seller primarily for business or commercial purposes.

(c) "Direct loan agreement" means an agreement between a lender and a purchaser whereby the lender has advanced funds pursuant to a loan secured by the motor vehicle which the purchaser has purchased.

(d) "Lease contract" means a lease contract between a lessor and lessee as this term and these parties are defined in Section 2985.7 of the Civil Code. Notwithstanding subdivision (d) of Section 2985.7 of the Civil Code, "lease contract" includes a lease for business or commercial purposes.

(e) "Motor vehicle" means any vehicle required to be registered under the Vehicle Code.

(f) "Person" means an individual, company, firm, association, partnership, trust, corporation, limited liability company, or other legal entity.

(g) "Purchaser" has the meaning set forth in subdivision (33) of Section 1201 of the Commercial Code.

(h) "Security agreement" and "secured party" have the meanings set forth, respectively, in paragraphs (73) and (72) of subdivision (a) of Section 9102 of the Commercial Code. "Security interest" has the meaning set forth in subdivision (37) of Section 1201 of the Commercial Code.

(i) "Seller" has the meaning set forth in subdivision (b) of Section 2981 of the Civil Code, and includes the present holder of the conditional sale contract.

(Amended Sec. 54.5, Ch. 991, Stats. 1999. Effective January 1, 2000. Operative July 1, 1999.)

602. Except as provided in paragraph (2) of subdivision (v), subdivision (x), and Section 602.8, every person who willfully commits a trespass by any of the following acts is guilty of a misdemeanor:

(a) Cutting down, destroying, or injuring any kind of wood or timber standing or growing upon the lands of another.

(b) Carrying away any kind of wood or timber lying on those lands.

(c) Maliciously injuring or severing from the freehold of another anything attached to it, or its produce.

(d) Digging, taking, or carrying away from any lot situated within the limits of any incorporated city, without the license of the owner or legal occupant, any earth, soil, or stone.

(e) Digging, taking, or carrying away from land in any city or town laid down on the map or plan of the city, or otherwise recognized or established as a street, alley, avenue, or park, without the license of the proper authorities, any earth, soil, or stone.

(f) Maliciously tearing down, damaging, mutilating, or destroying any sign, signboard, or notice placed upon, or affixed to, any property belonging to the state, or to any city, county, city and county, town or village, or upon any property of any person, by the state or by an automobile association, which sign, signboard or notice is intended to indicate or designate a road, or a highway, or is intended to direct travelers from one point to another, or relates to fires, fire control, or any other matter involving the protection of the property, or putting up, affixing, fastening, printing, or painting upon any property belonging to the state, or to any city, county, town, or village, or dedicated to the public, or upon any property of any person, without license from the owner, any notice, advertisement, or designation of, or any name for any commodity, whether for sale or otherwise, or any picture, sign, or device intended to call attention to it.

(g) Entering upon any lands owned by any other person whereon oysters or other shellfish are planted or growing; or injuring, gathering, or carrying away any oysters or other shellfish planted, growing, or on any of those lands, whether covered by water or not, without the license of the owner or legal occupant; or damaging, destroying, or removing, or causing to be removed, damaged, or destroyed, any stakes, marks, fences, or signs intended to designate the boundaries and limits of any of those lands.

(h) (1) Entering upon lands or buildings owned by any other person without the license of the owner or legal occupant, where signs forbidding trespass are displayed, and whereon cattle, goats, pigs, sheep, fowl, or any other animal is being raised, bred, fed, or held for the purpose of food for human consumption; or injuring, gathering, or carrying away any animal being housed on any of those lands, without the license of the owner or legal occupant; or damaging, destroying, or removing, or causing to be removed, damaged, or destroyed, any stakes, marks, fences, or signs intended to designate the boundaries and limits of any of those lands.

(2) In order for there to be a violation of this subdivision, the trespass signs under paragraph (1) must be displayed at intervals not less than three per mile along all exterior boundaries and at all roads and trails entering the land.

(3) This subdivision shall not be construed to preclude prosecution or punishment under any other provision of law, including, but not limited to, grand theft or any provision that provides for a greater penalty or longer term of imprisonment.

(i) Willfully opening, tearing down, or otherwise destroying any fence on the enclosed land of another, or opening any gate, bar, or fence of another and willfully leaving it open without the written permission of the owner, or maliciously tearing down, mutilating, or destroying any sign, signboard, or other notice forbidding shooting on private property.

(j) Building fires upon any lands owned by another where signs forbidding trespass are displayed at intervals not greater than one mile along the exterior boundaries and at all roads and trails entering the lands, without first having obtained written permission from the owner of the lands or the owner's agent, or the person in lawful possession.

(k) Entering any lands, whether unenclosed or enclosed by fence, for the purpose of injuring any property or property rights or with the intention of interfering with, obstructing, or injuring any lawful business or occupation carried on by the owner of the land, the owner's agent or by the person in lawful possession.

(*l*) Entering any lands under cultivation or enclosed by fence, belonging to, or occupied by, another, or entering upon uncultivated or unenclosed lands where signs forbidding trespass are displayed at intervals not less than three to the mile along all exterior boundaries and at all roads and trails entering the lands without the written permission of the owner of the land, the owner's agent or of the person in lawful possession, ***and***

(1) Refusing or failing to leave the lands immediately upon being requested by the owner of the land, the owner's agent or by the person in lawful possession to leave the lands, or

(2) Tearing down, mutilating, or destroying any sign, signboard, or notice forbidding trespass or hunting on the lands, or

(3) Removing, injuring, unlocking, or tampering with any lock on any gate on or leading into the lands, or

(4) Discharging any firearm.

(m) Entering and occupying real property or structures of any kind without the consent of the owner, the owner's agent, or the person in lawful possession.

(n) Driving any vehicle, as defined in Section 670 of the Vehicle Code, upon real property belonging to, or lawfully occupied by, another and known not to be open to the general public, without the consent of the owner, the owner's agent, or the person in lawful possession. This subdivision shall not apply to any person described in Section 22350 of the Business and Professions Code who is making a lawful service of process, provided that upon exiting the vehicle, the person proceeds immediately to attempt the service of process, and leaves immediately upon completing the service of process or upon the request of the owner, the owner's agent, or the person in lawful possession.

(o) Refusing or failing to leave land, real property, or structures belonging to or lawfully occupied by another and not open to the general public, upon being requested to leave by (1) a peace officer at the request of the owner, the owner's agent, or the person in lawful possession, and upon being informed by the peace officer that he or she is acting at the request of the owner, the owner's agent, or the person in lawful possession, or (2) the owner, the owner's agent, or the person in lawful possession. The owner, the owner's agent, or the person in lawful possession shall make a separate request to the peace officer on each occasion when the peace officer's assistance in dealing with a trespass is requested. However, a single request for a peace officer"s assistance may be made to cover a limited period of time not to exceed 30 days and identified by specific dates, during which there is a fire hazard or the owner, owner's agent or person in lawful possession is absent from the premises or property. In addition, a single request for a peace officer's assistance may be made for a period not to exceed six months when the premises or property is closed to the public and posted as being closed. However, this subdivision shall not be applicable to persons engaged in lawful labor union activities which are permitted to be carried out on the property by the California Agricultural Labor Relations Act, Part 3.5 (commencing with Section 1140) of Division 2 of the Labor Code, or by the National Labor Relations Act. For purposes of this section, land, real property, or structures owned or operated by any housing authority for tenants as defined under Section 34213.5 of the Health and Safety Code constitutes property not open to the general public; however, this subdivision shall not apply to persons on the premises who are engaging in activities protected by the California or United States Constitution, or to persons who are on the premises at the request of a resident or management and who are not loitering or otherwise suspected of violating or actually violating any law or ordinance.

(p) Entering upon any lands declared closed to entry as provided in Section 4256 of the Public Resources Code, if the closed areas shall have been posted with notices declaring the closure, at intervals not greater than one mile along the exterior boundaries or along roads and trails passing through the lands.

(q) Refusing or failing to leave a public building of a public agency during those hours of the day or night when the building is regularly closed to the public upon being requested to do so by a regularly

employed guard, watchman, or custodian of the public agency owning or maintaining the building or property, if the surrounding circumstances would indicate to a reasonable person that the person has no apparent lawful business to pursue.

(r) Knowingly skiing in an area or on a ski trail which is closed to the public and which has signs posted indicating the closure.

(s) Refusing or failing to leave a hotel or motel, where he or she has obtained accommodations and has refused to pay for those accommodations, upon request of the proprietor or manager, and the occupancy is exempt, pursuant to subdivision (b) of Section 1940 of the Civil Code, from Chapter 2 (commencing with Section 1940) of Title 5 of Part 4 of Division 3 of the Civil Code. For purposes of this subdivision, occupancy at a hotel or motel for a continuous period of 30 days or less shall, in the absence of a written agreement to the contrary, or other written evidence of a periodic tenancy of indefinite duration, be exempt from Chapter 2 (commencing with Section 1940) of Title 5 of Part 4 of Division 3 of the Civil Code.

(t) Entering upon private property, including contiguous land, real property, or structures thereon belonging to the same owner, whether or not generally open to the public, after having been informed by a peace officer at the request of the owner, the owner"s agent, or the person in lawful possession, and upon being informed by the peace officer that he or she is acting at the request of the owner, the owner"s agent, or the person in lawful possession, that the property is not open to the particular person; or refusing or failing to leave the property upon being asked to leave the property in the manner provided in this subdivision. This subdivision shall apply only to a person who has been convicted of a violent felony, as specified in subdivision (c) of Section 667.5, committed upon the particular private property. A single notification or request to the person as set forth above shall be valid and enforceable under this subdivision unless and until rescinded by the owner, the owner"s agent, or the person in lawful possession of the property.

(u) (1) Knowingly entering, by an unauthorized person, upon any airport ***or passenger vessel terminal*** operations area if the area has been posted with notices restricting access to authorized personnel only and the postings occur not greater than every 150 feet along the exterior boundary***, to the extent, in the case of a passenger vessel terminal, as defined in subparagraph (B) of paragraph (3), that the exterior boundary extends shoreside. To the extent that the exterior boundary of a passenger vessel terminal operations area extends waterside, this prohibition shall apply if notices have been posted in a manner consistent with the requirements for the shoreside exterior boundary, or in any other manner approved by the captain of the port***.

(2) Any person convicted of a violation of paragraph (1) shall be punished as follows:

(A) By a fine not exceeding one hundred dollars ($100).

(B) By imprisonment in the county jail not exceeding six months, or by a fine not exceeding one thousand dollars ($1,000), or both, if ***the person refuses to leave the airport or passenger vessel terminal*** after being requested to leave by a peace officer or authorized personnel.

(C) By imprisonment in the county jail not exceeding six months, or by a fine not exceeding one thousand dollars ($1,000), or both, for a second or subsequent offense.

(3) As used in this subdivision the following definitions shall control:

(A) "Airport operations area" means that part of the airport used by aircraft for landing, taking off, surface maneuvering, loading and unloading, refueling, parking, or maintenance, where aircraft support vehicles and facilities exist, and which is not for public use or public vehicular traffic.

(B) ***"Passenger vessel terminal" means only that portion of a harbor or port facility, as described in Section 105.105(a)(2) of Title 33 of the Code of Federal Regulations, with a secured area that regularly serves scheduled commuter or passenger operations. For the purposes of this section, "passenger vessel terminal" does not include any area designated a public access area pursuant to Section 105.106 of Title 33 of the Code of Federal Regulations.***

(C) "Authorized personnel" means any person who has a valid airport identification card issued by the airport operator or has a valid airline identification card recognized by the airport operator, or any person not in possession of an airport or airline identification card who is being escorted for legitimate purposes by a person with an airport or airline identification card. ***"Authorized personnel" also means any person who has a valid port identification card issued by the harbor operator, or who has a valid company identification card issued by a commercial maritime enterprise recognized by the harbor operator, or any other person who is being escorted for legitimate purposes by a person with a valid port or qualifying company identification card.***

(D) "Airport" means any facility whose function is to support commercial aviation.

(v) (1) Except as permitted by federal law, intentionally avoiding submission to the screening and inspection of one's person and accessible property in accordance with the procedures being applied to control access when entering or reentering a sterile area of an airport ***or passenger vessel terminal***, as defined in Section 171.5.

(2) A violation of this subdivision that is responsible for the evacuation of an airport terminal ***or passenger vessel terminal*** and is responsible in any part for delays or cancellations of scheduled flights ***or departures*** is punishable by imprisonment of not more than one year in a county jail if the sterile area is posted with a statement providing reasonable notice that prosecution may result from a trespass described in this subdivision.

(w) Refusing or failing to leave a battered women's shelter at any time after being requested to leave by a managing authority of the shelter.

(1) A person who is convicted of violating this subdivision shall be punished by imprisonment in a county jail for not more than one year.

(2) The court may order a defendant who is convicted of violating this subdivision to make restitution to a battered woman in an amount equal to the relocation expenses of the battered woman and her children if those expenses are incurred as a result of trespass by the defendant at a battered women's shelter.

(x) (1) Knowingly entering or remaining in a neonatal unit, maternity ward, or birthing center located in a hospital or clinic without lawful business to pursue therein, if the area has been posted so as to give reasonable notice restricting access to those with lawful business to pursue therein and the surrounding circumstances would indicate to a reasonable person that he or she has no lawful business to pursue therein. Reasonable notice is that which would give actual notice to a reasonable person, and is posted, at a minimum, at each entrance into the area.

(2) Any person convicted of a violation of paragraph (1) shall be punished as follows:

(A) As an infraction, by a fine not exceeding one hundred dollars ($100).

(B) By imprisonment in a county jail not exceeding one year, or by a fine not exceeding one thousand dollars ($1,000), or both, if the person refuses to leave the posted area after being requested to leave by a peace officer or other authorized person.

(C) By imprisonment in a county jail not exceeding one year, or by a fine not exceeding two thousand dollars ($2,000), or both, for a second or subsequent offense.

(D) If probation is granted or the execution or imposition of sentencing is suspended for any person convicted under this subdivision, it shall be a condition of probation that the person participate in counseling, as designated by the court, unless the court finds good cause not to impose this requirement. The court shall require the person to pay for this counseling, if ordered, unless good cause not to pay is shown.

(y) Except as permitted by federal law, intentionally avoiding submission to the screening and inspection of one's person and accessible property in accordance with the procedures being applied to control access when entering or reentering a courthouse or a city, county, city and county, or state building if entrances to the courthouse or the city, county, city and county, or state building have been posted with a statement providing reasonable notice that prosecution may result from a trespass described in this subdivision.

(Amended Sec. 3, Ch. 378, Stats. 2005. Effective January 1, 2006.)

818. In any case in which a peace officer serves upon a person a warrant of arrest for a misdemeanor offense under the Vehicle Code or under any local ordinance relating to stopping, standing, parking, or operation of a motor vehicle and where no written promise to appear has been filed and the warrant states on its face that a citation may be used in lieu of physical arrest, the peace officer may, instead of taking the person before a magistrate, prepare a notice to appear and release the person on his promise to appear, as prescribed

by Sections 853.6 through 853.8 of the Penal Code. Issuance of a notice to appear and securing of a promise to appear shall be deemed a compliance with the directions of the warrant, and the peace officer issuing such notice to appear and obtaining such promise to appear shall endorse on the warrant "Section 818, Penal Code, complied with" and return the warrant to the magistrate who issued it.

(Amended Ch. 336, Stats. 1980. Effective January 1, 1981.)

Peace Officers

830. Any person who comes within the provisions of this chapter and who otherwise meets all standards imposed by law on a peace officer is a peace officer, and notwithstanding any other provision of law, no person other than those designated in this chapter is a peace officer. The restriction of peace officer functions of any public officer or employee shall not affect his or her status for purposes of retirement.

(Amended Ch. 1165, Stats. 1989. Effective January 1, 1990.)

830.3. The following persons are peace officers whose authority extends to any place in the state for the purpose of performing their primary duty or when making an arrest pursuant to Section 836 of the Penal Code as to any public offense with respect to which there is immediate danger to person or property, or of the escape of the perpetrator of that offense, or pursuant to Section 8597 or 8598 of the Government Code. These peace officers may carry firearms only if authorized and under those terms and conditions as specified by their employing agencies:

(a) Persons employed by the Division of Investigation of the Department of Consumer Affairs and investigators of the Medical Board of California and the Board of Dental Examiners, who are designated by the Director of Consumer Affairs, provided that the primary duty of these peace officers shall be the enforcement of the law as that duty is set forth in Section 160 of the Business and Professions Code.

(b) Voluntary fire wardens designated by the Director of Forestry and Fire Protection pursuant to Section 4156 of the Public Resources Code, provided that the primary duty of these peace officers shall be the enforcement of the law as that duty is set forth in Section 4156 of that code.

(c) Employees of the Department of Motor Vehicles designated in Section 1655 of the Vehicle Code, provided that the primary duty of these peace officers shall be the enforcement of the law as that duty is set forth in Section 1655 of that code.

(d) Investigators of the California Horse Racing Board designated by the board, provided that the primary duty of these peace officers shall be the enforcement of Chapter 4 (commencing with Section 19400) of Division 8 of the Business and Professions Code and Chapter 10 (commencing with Section 330) of Title 9 of Part 1 of this code.

(e) The State Fire Marshal and assistant or deputy state fire marshals appointed pursuant to Section 13103 of the Health and Safety Code, provided that the primary duty of these peace officers shall be the enforcement of the law as that duty is set forth in Section 13104 of that code.

(f) Inspectors of the food and drug section designated by the chief pursuant to subdivision (a) of Section 106500 of the Health and Safety Code, provided that the primary duty of these peace officers shall be the enforcement of the law as that duty is set forth in Section 106500 of that code.

(g) All investigators of the Division of Labor Standards Enforcement designated by the Labor Commissioner, provided that the primary duty of these peace officers shall be the enforcement of the law as prescribed in Section 95 of the Labor Code.

(h) All investigators of the State Departments of Health Services, Social Services, Mental Health, Developmental Services, and Alcohol and Drug Programs, the Department of Toxic Substances Control, the Office of Statewide Health Planning and Development, and the Public Employees' Retirement System, provided that the primary duty of these peace officers shall be the enforcement of the law relating to the duties of his or her department or office. Notwithstanding any other provision of law, investigators of the Public Employees' Retirement System shall not carry firearms.

(i) The Chief of the Bureau of Fraudulent Claims of the Department of Insurance and those investigators designated by the chief, provided that the primary duty of those investigators shall be the enforcement of Section 550.

(j) Employees of the Department of Housing and Community Development designated under Section 18023 of the Health and Safety Code, provided that the primary duty of these peace officers shall be the enforcement of the law as that duty is set forth in Section 18023 of that code.

(k) Investigators of the office of the Controller, provided that the primary duty of these investigators shall be the enforcement of the law relating to the duties of that office. Notwithstanding any other law, except as authorized by the Controller, the peace officers designated pursuant to this subdivision shall not carry firearms.

(*l*) Investigators of the Department of Corporations designated by the Commissioner of Corporations, provided that the primary duty of these investigators shall be the enforcement of the provisions of law administered by the Department of Corporations. Notwithstanding any other provision of law, the peace officers designated pursuant to this subdivision shall not carry firearms.

(m) Persons employed by the Contractors' State License Board designated by the Director of Consumer Affairs pursuant to Section 7011.5 of the Business and Professions Code, provided that the primary duty of these persons shall be the enforcement of the law as that duty is set forth in Section 7011.5, and in Chapter 9 (commencing with Section 7000) of Division 3, of that code. The Director of Consumer Affairs may designate as peace officers not more than three persons who shall at the time of their designation be assigned to the special investigations unit of the board. Notwithstanding any other provision of law, the persons designated pursuant to this subdivision shall not carry firearms.

(n) The Chief and coordinators of the Law Enforcement Division of the Office of Emergency Services.

(o) Investigators of the office of the Secretary of State designated by the Secretary of State, provided that the primary duty of these peace officers shall be the enforcement of the law as prescribed in Chapter 3 (commencing with Section 8200) of Division 1 of Title 2 of, and Section 12172.5 of, the Government Code. Notwithstanding any other provision of law, the peace officers designated pursuant to this subdivision shall not carry firearms.

(p) The Deputy Director for Security designated by Section 8880.38 of the Government Code, and all lottery security personnel assigned to the California State Lottery and designated by the director, provided that the primary duty of any of those peace officers shall be the enforcement of the laws related to assuring the integrity, honesty, and fairness of the operation and administration of the California State Lottery.

(q) Investigators employed by the Investigation Division of the Employment Development Department designated by the director of the department, provided that the primary duty of those peace officers shall be the enforcement of the law as that duty is set forth in Section 317 of the Unemployment Insurance Code.

Notwithstanding any other provision of law, the peace officers designated pursuant to this subdivision shall not carry firearms.

(r) The chief and assistant chief of museum security and safety of the California Science Center, as designated by the executive director pursuant to Section 4108 of the Food and Agricultural Code, provided that the primary duty of those peace officers shall be the enforcement of the law as that duty is set forth in Section 4108 of the Food and Agricultural Code.

(s) Employees of the Franchise Tax Board designated by the board, provided that the primary duty of these peace officers shall be the enforcement of the law as set forth in Chapter 9 (commencing with Section 19701) of Part 10.2 of Division 2 of the Revenue and Taxation Code.

(t) Notwithstanding any other provision of this section, a peace officer authorized by this section shall not be authorized to carry firearms by his or her employing agency until that agency has adopted a policy on the use of deadly force by those peace officers, and until those peace officers have been instructed in the employing agency's policy on the use of deadly force.

Every peace officer authorized pursuant to this section to carry firearms by his or her employing agency shall qualify in the use of the firearms at least every six months.

(u) Investigators of the Department of Managed Health Care designated by the Director of the Department of Managed Health Care, provided that the primary duty of these investigators shall be the enforcement of the provisions of laws administered by the Director of the Department of Managed Health Care. Notwithstanding any other provision of law, the peace officers designated pursuant to this subdivision shall not carry firearms.

(Amended Sec. 80, Ch. 788, Stats. 2003. Effective January 1, 2004.)

1203.1bb. (a) The reasonable cost of probation determined under subdivision (a) of Section 1203.1b shall include the cost of purchasing and installing an ignition interlock device pursuant to Section 13386 of the Vehicle Code. Any defendant subject to this section shall pay the manufacturer of the ignition interlock device directly for the cost of its purchase and installation, in accordance with the payment schedule ordered by the court. If practicable, the court shall order payment to be made to the manufacturer of the ignition interlock device within a six-month period.

(b) This section does not require any county to pay the costs of purchasing and installing any ignition interlock devices ordered pursuant to Section 13386 of the Vehicle Code. The Office of Traffic Safety shall consult with the presiding judge or his or her designee in each county to determine an appropriate means, if any, to provide for installation of ignition interlock devices in cases in which the defendant has no ability to pay.

(Amended Sec. 21, Ch. 787, Stats. 2002. Effective January 1, 2003.)

1203.4. (a) In any case in which a defendant has fulfilled the conditions of probation for the entire period of probation, or has been discharged prior to the termination of the period of probation, or in any other case in which a court, in its discretion and the interests of justice, determines that a defendant should be granted the relief available under this section, the defendant shall, at any time after the termination of the period of probation, if he or she is not then serving a sentence for any offense, on probation for any offense, or charged with the commission of any offense, be permitted by the court to withdraw his or her plea of guilty or plea of nolo contendere and enter a plea of not guilty; or, if he or she has been convicted after a plea of not guilty, the court shall set aside the verdict of guilty; and, in either case, the court shall thereupon dismiss the accusations or information against the defendant and except as noted below, he or she shall thereafter be released from all penalties and disabilities resulting from the offense of which he or she has been convicted, except as provided in Section 13555 of the Vehicle Code. The probationer shall be informed, in his or her probation papers, of this right and privilege and his or her right, if any, to petition for a certificate of rehabilitation and pardon. The probationer may make the application and change of plea in person or by attorney, or by the probation officer authorized in writing. However, in any subsequent prosecution of the defendant for any other offense, the prior conviction may be pleaded and proved and shall have the same effect as if probation had not been granted or the accusation or information dismissed. The order shall state, and the probationer shall be informed, that the order does not relieve him or her of the obligation to disclose the conviction in response to any direct question contained in any questionnaire or application for public office, for licensure by any state or local agency, or for contracting with the California State Lottery.

Dismissal of an accusation or information pursuant to this section does not permit a person to own, possess, or have in his or her custody or control any firearm or prevent his or her conviction under Section 12021.

This subdivision shall apply to all applications for relief under this section which are filed on or after November 23, 1970.

(b) Subdivision (a) of this section does not apply to any misdemeanor that is within the provisions of subdivision (b) of Section 42001 of the Vehicle Code, to any violation of subdivision (c) of Section 286, Section 288, subdivision (c) of Section 288a, Section 288.5, or subdivision (j) of Section 289, any felony conviction pursuant to subdivision (d) of Section 261.5, or to any infraction.

(c) A person who petitions for a change of plea or setting aside of a verdict under this section may be required ***to reimburse the court for the actual cost of services rendered, whether or not the petition is granted and the records are sealed or expunged, at a rate to be determined by the court not to exceed one hundred twenty dollars ($120), and*** to reimburse the county for the actual cost of services rendered, whether or not the petition is granted and the records are sealed or expunged, at a rate to be determined by the county board of supervisors not to exceed one hundred twenty dollars ($120), and to reimburse any city for the actual cost of services rendered, whether or not the petition is granted and the records are sealed or expunged, at a rate to be determined by the city council not to exceed one hundred twenty dollars ($120). Ability to make this reimbursement shall be determined by the court using the standards set forth in paragraph (2) of subdivision (g) of Section 987.8 and shall not be a prerequisite to a person's eligibility under this section. The court may order reimbursement in any case in which the petitioner appears to have the ability to pay, without undue hardship, all or any portion of the cost for services established pursuant to this subdivision.

(d) No relief shall be granted under this section unless the prosecuting attorney has been given 15 days' notice of the petition for relief. The probation officer shall notify the prosecuting attorney when a petition is filed, pursuant to this section.

It shall be presumed that the prosecuting attorney has received notice if proof of service is filed with the court.

(e) If, after receiving notice pursuant to subdivision (d), the prosecuting attorney fails to appear and object to a petition for dismissal, the prosecuting attorney may not move to set aside or otherwise appeal the grant of that petition.

(f) Notwithstanding the above provisions or any other provision of law, the Governor shall have the right to pardon a person convicted of a violation of subdivision (c) of Section 286, Section 288, subdivision (c) of Section 288a, Section 288.5, or subdivision (j) of Section 289, if there are extraordinary circumstances.

(Amended Sec. 5, Ch. 705, Stats. 2005. Effective October 7, 2005. Supersedes Sec. 3, Ch. 704.)

1203.4a. (a) Every defendant convicted of a misdemeanor and not granted probation shall, at any time after the lapse of one year from the date of pronouncement of judgment, if he or she has fully complied with and performed the sentence of the court, is not then serving a sentence for any offense and is not under charge of commission of any crime and has, since the pronouncement of judgment, lived an honest and upright life and has conformed to and obeyed the laws of the land, be permitted by the court to withdraw his or her plea of guilty or nolo contendere and enter a plea of not guilty; or if he or she has been convicted after a plea of not guilty, the court shall set aside the verdict of guilty; and in either case the court shall thereupon dismiss the accusatory pleading against the defendant, who shall thereafter be released from all penalties and disabilities resulting from the offense of which he or she has been convicted, except as provided in Section 12021.1 of this code or Section 13555 of the Vehicle Code. The defendant shall be informed of the provisions of this section, either orally or in writing, at the time he or she is sentenced. The defendant may make an application and change of plea in person or by attorney, or by the probation officer authorized in writing; provided, that in any subsequent prosecution of the defendant for any other offense, the prior conviction may be pleaded and proved and shall have the same effect as if relief had not been granted pursuant to this section.

This subdivision applies to convictions which occurred before as well as those occurring after, the effective date of this section.

(b) Subdivision (a) does not apply to any misdemeanor falling within the provisions of subdivision (b) of Section 42001 of the Vehicle Code, or to any infraction.

(c) A person who petitions for a dismissal of a charge under this section may be required to reimburse the county and the court for the cost of services rendered at a rate to be determined by the county board of supervisors for the county and by the court for the court, not to exceed sixty dollars ($60), and to reimburse any city for the cost of services rendered at a rate to be determined by the city council not to exceed sixty dollars ($60). Ability to make this reimbursement shall be determined by the court using the standards set forth in paragraph (2) of subdivision ***(g)*** of Section 987.8 and shall not be a prerequisite to a person"s eligibility under this section. The court may order reimbursement in any case in which the petitioner appears to have the ability to pay, without undue hardship, all or any portion of the cost for services established pursuant to this subdivision.

(d) Any determination of amount made by a court under this section shall be valid only if either (1) made under procedures adopted by the Judicial Council or (2) approved by the Judicial Council.

(Amended Sec. 150, Ch. 22, Stats. 2005. Effective January 1, 2006.)

1203.45. (a) In any case in which a person was under the age of 18 years at the time of commission of a misdemeanor and is eligible for, or has previously received, the relief provided by Section 1203.4 or 1203.4a, that person, in a proceeding under Section 1203.4 or 1203.4a, or a separate proceeding, may petition the court for an order sealing the record of conviction and other official records in the case, including records of arrests resulting in the criminal proceeding and records relating to other offenses charged in the accusatory pleading,

whether defendant was acquitted or charges were dismissed. If the court finds that the person was under the age of 18 at the time of the commission of the misdemeanor, and is eligible for relief under Section 1203.4 or 1203.4a or has previously received that relief, it may issue its order granting the relief prayed for. Thereafter the conviction, arrest, or other proceeding shall be deemed not to have occurred, and the petitioner may answer accordingly any question relating to their occurrence.

(b) This section applies to convictions which occurred before, as well as those which occur after, the effective date of this section.

(c) This section shall not apply to offenses for which registration is required under Section 290, to violations of Division 10 (commencing with Section 11000) of the Health and Safety Code, or to misdemeanor violations of the Vehicle Code relating to operation of a vehicle or of any local ordinance relating to operation, standing, stopping, or parking of a motor vehicle.

(d) This section does not apply to a person convicted of more than one offense, whether the second or additional convictions occurred in the same action in which the conviction as to which relief is sought occurred or in another action, except in the following cases:

(1) One of the offenses includes the other or others.

(2) The other conviction or convictions were for the following:

(A) Misdemeanor violations of Chapters 1 (commencing with Section 21000) to 9 (commencing with Section 22500), inclusive, Chapter 12 (commencing with Section 23100), or Chapter 13 (commencing with Section 23250) of Division 11 of the Vehicle Code, other than Section 23103, 23104, 23152, 23153, or 23220.

(B) Violation of any local ordinance relating to the operation, stopping, standing, or parking of a motor vehicle.

(3) The other conviction or convictions consisted of any combination of paragraphs (1) and (2).

(e) This section shall apply in any case in which a person was under the age of 21 at the time of the commission of an offense as to which this section is made applicable if that offense was committed prior to March 7, 1973.

(f) In any action or proceeding based upon defamation, a court, upon a showing of good cause, may order any records sealed under this section to be opened and admitted into evidence. The records shall be confidential and shall be available for inspection only by the court, jury, parties, counsel for the parties, and any other person who is authorized by the court to inspect them. Upon the judgment in the action or proceeding becoming final, the court shall order the records sealed.

(g) A person who petitions for an order sealing a record under this section may be required to reimburse the ***court for the actual cost of services rendered, whether or not the petition is granted and the records are sealed or expunged, at a rate to be determined by the court not to exceed one hundred twenty dollars ($120), and to reimburse the*** county for the actual cost of services rendered, whether or not the petition is granted and the records are sealed or expunged, at a rate to be determined by the county board of supervisors not to exceed one hundred twenty dollars ($120), and to reimburse any city for the actual cost of services rendered, whether or not the petition is granted and the records are sealed or expunged, at a rate to be determined by the city council not to exceed one hundred twenty dollars ($120). Ability to make this reimbursement shall be determined by the court using the standards set forth in paragraph (2) of subdivision (g) of Section 987.8 and shall not be a prerequisite to a person's eligibility under this section. The court may order reimbursement in any case in which the petitioner appears to have the ability to pay, without undue hardship, all or any portion of the cost for services established pursuant to this subdivision.

(Amended Sec. 6, Ch. 705, Stats. 2005. Effective October 7, 2005.)

1463.13. (a) Each county may develop, implement, operate, and administer an alcohol and drug problem assessment program for persons convicted of a crime in which the court finds that alcohol or substance abuse was substantially involved in the commission of the crime. This program may be operated in coordination with the program developed under Article 6 (commencing with Section 23645) of Chapter 4 of Division 11.5 of the Vehicle Code.

(1) A portion of any program established pursuant to this section shall include a face-to-face interview with each program participant.

(2) No person convicted of driving under the influence of alcohol or a controlled substance or a related offense shall participate in any program established pursuant to this section.

(b) An alcohol and drug problem assessment report shall be made on each person who participates in the program. The report may be used to determine the appropriate sentence for the person. The report shall be submitted to the court within 14 days of the completion of the assessment.

(c) In any county in which the county operates an alcohol and drug problem assessment program under this section, a court may order any person convicted of a crime that involved the use of drugs or alcohol, including any person who is found to have been under the influence of drugs or alcohol during the commission of the crime, to participate in the assessment program.

(d) Notwithstanding any other provision of law, in addition to any other fine or penalty assessment, there shall be levied an assessment of not more than one hundred fifty dollars ($150) upon every fine, penalty, or forfeiture imposed and collected by the courts for a public offense wherein the court orders the offender to participate in a county alcohol and drug problem assessment program. The assessment shall only be levied in a county upon the adoption of a resolution by the board of supervisors of the county making that county subject to this section.

(e) The court shall determine if the defendant has the ability to pay the assessment. If the court determines that the defendant has the ability to pay the assessment then the court may set the amount to be reimbursed and order the defendant to pay that sum to the county in the manner which the court determines is reasonable and compatible with the defendant's financial ability. In making a determination of whether a defendant has the ability to pay, the court shall take into account the amount of any fine imposed upon the defendant and any amount the defendant has been ordered to pay in victim restitution.

(f) Notwithstanding Section 1463 or 1464 of the Penal Code or any other provision of law, all moneys collected pursuant to this section shall be deposited in a special account in the county treasury and shall be used exclusively to pay for the costs of developing, implementing, operating, maintaining, and evaluating alcohol and drug problem assessment and monitoring programs.

(g) On January 15 of each year, the treasurer of each county that administers an alcohol and drug problem assessment and monitoring program shall determine those moneys in the special account which were not expended during the preceding fiscal year, and shall transfer those moneys to the general fund of the county.

(Added Sec. 1, Ch. 165, Stats. 2000. Effective January 1, 2001.)

1463.15. Notwithstanding Section 1463, if a county board of supervisors establishes a combined vehicle inspection and sobriety checkpoint program under Section 2814.1 of the Vehicle Code, thirty-five dollars ($35) of the money deposited with the county treasurer under Section 1463.001 and collected from each fine and forfeiture imposed under subdivision (b) of Section 42001.2 of the Vehicle Code shall be deposited in a special account to be used exclusively to pay the cost incurred by the county for establishing and conducting the combined vehicle inspection and sobriety checkpoint program. The money allocated to pay the cost incurred by the county for establishing and conducting the combined checkpoint program pursuant to this section may only be deposited in the special account after a fine imposed pursuant to subdivision (b) of Section 42001.2, and any penalty assessment thereon, has been collected.

(Added Sec. 2, Ch. 482, Stats. 2003. Effective January 1, 2004.)

1536.5. (a) If a government agency seizes business records from an entity pursuant to a search warrant, the entity from which the records were seized may file a demand on that government agency to produce copies of the business records that have been seized. The demand for production of copies of business records shall be supported by a declaration, made under penalty of perjury, that denial of access to the records in question will either unduly interfere with the entity's ability to conduct its regular course of business or obstruct the entity from fulfilling an affirmative obligation that it has under the law. Unless the government agency objects pursuant to subdivision (d), this declaration shall suffice if it makes a prima facie case that specific business activities or specific legal obligations faced by the entity would be impaired or impeded by the ongoing loss of records.

(b) (1) Except as provided in paragraph (2), when a government agency seizes business records from an entity and is subsequently served with a demand for copies of those business records pursuant to subdivision (a), the government agency in possession of those

records shall make copies of those records available to the entity within 10 court days of the service of the demand to produce copies of the records.

(2) In the alternative, the agency in possession of the original records, may in its discretion, make the original records reasonably available to the entity within 10 court days following the service of the demand to produce records, and allow the entity reasonable time to copy the records.

(3) No agency shall be required to make records available at times other than normal business hours.

(4) If data is recorded in a tangible medium, copies of the data may be provided in that same medium, or any other medium of which the entity may make reasonable use. If the data is stored electronically, electromagnetically, or photo-optically, the entity may obtain either a copy made by the same process in which the data is stored, or in the alternative, by any other tangible medium through which the entity may make reasonable use of the data.

(5) A government agency granting the entity access to the original records for the purpose of making copies of the records, may take reasonable steps to ensure the integrity and chain of custody of the business records.

(6) If the seized records are too voluminous to be reviewed or be copied in the time period required by subdivision (a), the government agency that seized the records may file a written motion with the court for additional time to review the records or make the copies. This motion shall be made within 10 court days of the service of the demand for the records. An extension of time under this paragraph shall not be granted unless the agency establishes that reviewing or producing copies of the records within the 10 court day time period, would create a hardship on the agency. If the court grants the motion, it shall make an order designating a timeframe for the review and the duplication and return of the business records, deferring to the entity the priority of the records to be reviewed, duplicated, and returned first.

(c) If a court finds that a declaration made by an entity as provided in subdivision (a) is adequate to establish the specified prima facie case, a government agency may refuse to produce copies of the business records or to grant access to the original records only under one or both of the following circumstances:

(1) The court determines by the preponderance of the evidence standard that denial of access to the business records or copies of the business records will not unduly interfere with the entity's ability to conduct its regular course of business or obstruct the entity from fulfilling an affirmative obligation that it has under the law.

(2) The court determines by the preponderance of the evidence standard that possession of the business records by the entity will pose a significant risk of ongoing criminal activity, or that the business records are contraband, evidence of criminal conduct by the entity from which the records were seized, or depict a person under the age of 18 years personally engaging in or simulating sexual conduct, as defined in subdivision (d) of Section 311.4.

(d) A government agency that desires not to produce copies of, or grant access to, seized business records shall file a motion with the court requesting an order denying the entity copies of and access to the records. A motion under this paragraph shall be in writing, and filed and served upon the entity prior to the expiration of 10 court days following the service of the demand to produce records specified in subdivision (a), within any extension of that time period granted under paragraph (6) of subdivision (b), or as soon as reasonably possible after discovery of the risk of harm.

(e) A hearing on a motion under subdivision (d) shall be held within two court days of the filing of the motion, except upon agreement of the parties.

(f) (1) Upon filing a motion under subdivision (d) opposing a demand for copies of records, the government agency may file a request in writing, served upon the demanding entity, that any showings of why the material should not be copied and released occur in an ex parte, in camera hearing. If the government agency alleges in its request for an in camera hearing that the demanding entity is, or is likely to become, a target of the investigation resulting in the seizure of records, the court shall hold this hearing outside of the presence of the demanding entity, and any representatives or counsel of the demanding entity. If the government agency does not allege in its request for an in camera hearing that the demanding entity is, or is likely to become, a target of the investigation resulting in the seizure of records, the court shall hold the hearing in camera only upon a particular factual showing by the government agency in its pleadings that a hearing in open court would impede or interrupt an ongoing criminal investigation.

(2) At the in camera hearing, any evidence that the government agency may offer that the release of the material would pose a significant risk of ongoing criminal activity, impede or interrupt an ongoing criminal investigation, or both, shall be offered under oath. A reporter shall be present at the in camera hearing to transcribe the entirety of the proceedings.

(3) Any transcription of the proceedings at the in camera hearing, as well as any physical evidence presented at the hearing, shall be ordered sealed by the court, and only a court may have access to its contents, unless a court determines that the failure to disclose the contents of the hearing would deprive the defendant or the people of a fair trial.

(4) Following the conclusion of the in camera hearing, the court shall make its ruling in open court, after notice to the demanding entity.

(g) The reasonable and necessary costs of producing copies of business records under this section shall be borne by the entity requesting copies of the records. Either party may request the court to resolve any dispute regarding these costs.

(h) Any motion under this section shall be filed in the court that issued the search warrant.

(i) For purposes of this section, the following terms are defined as follows:

(1) "Seize" means obtaining actual possession of any property alleged by the entity to contain business records.

(2) "Business" means an entity, sole proprietorship, partnership, or corporation operating legally in the State of California, that sells, leases, distributes, creates, or otherwise offers products or services to customers.

(3) "Business records" means computer data, data compilations, accounts, books, reports, contracts, correspondence, inventories, lists, personnel files, payrolls, vendor and client lists, documents, or papers of the person or business normally used in the regular course of business, or any other material item of business recordkeeping that may become technologically feasible in the future.

(Added Sec. 1, Ch. 372, Stats. 2004. Effective January 1, 2005.)

Director of Corrections: Sale of Vehicles

2813.5. Notwithstanding any other provision of this chapter except subdivision (i) of Section 2808, and notwithstanding subdivision (l) of Section 22851.3 of the Vehicle Code, the Director of Corrections may provide for the inmates in trade and industrial education or vocational training classes established under Section 2054 to restore and rebuild donated salvageable and abandoned vehicles. If these vehicles comply with Section 24007.5 of the Vehicle Code, they nay be sold at public auction to private persons, This activity shall be subject to the public hearing requirements of subdivision (i) of Section 2808 at any time that this activity involves a gross annual production of more than fifty thousand dollars ($50,000).

The proceeds of the sale after deduction of the cost of materials shall be deposited in the Restitution Fund in the State Treasury and, upon appropriation by the Legislature, may be used for indemnification of victims of crimes.

(Amended Ch. 1157, Stats. 1991. Effective January 1, 1992.)

11102.1. (a) Notwithstanding any other provision of law, the Department of Justice shall establish, implement, and maintain a certification program to process fingerprint-based criminal background clearances on individuals who roll applicant fingerprint impressions, manually or electronically, for licensure, certification, or employment purposes. Commencing January 1, 2004, no person shall roll applicant fingerprints for nonlaw enforcement purposes unless certified. Law enforcement personnel and state employees who have received training pertaining to applicant fingerprint rolling and have undergone a criminal offender record information background investigation are exempt from the requirements of this section. The department shall charge a fee sufficient to cover the costs of the certification program.

(b) Individuals who roll fingerprint impressions, either manually or electronically, for individuals who are being fingerprinted for applicant licensure, certification, or employment purposes, must submit to the Department of Justice, manually or electronically, two sets of fingerprints, along with the appropriate fees and documentation. The department shall retain one copy of the fingerprint impressions to process a state level criminal background

clearance, and it shall submit one copy of the fingerprint impressions to the Federal Bureau of Investigation to process a federal level criminal background clearance.

(c) The department shall retain the fingerprint impressions for subsequent arrest notification pursuant to Section 11105.2.

(d) Every individual certified as a fingerprint roller shall meet the following criteria:

(1) Be a legal resident of this state at the time of certification.

(2) Be at least 18 years of age.

(3) Have satisfactorily completed a notarized written application prescribed by the department to determine the fitness of the person to exercise the functions of a fingerprint roller.

(e) Prior to granting a certificate as a fingerprint roller, the department shall determine that the applicant possesses the required honesty, credibility, truthfulness, and integrity to fulfill the responsibilities of the position. To assist in determining the identity of the applicant, the department shall require that applicants submit fingerprint images and related information.

(f) The department shall not certify any individual who has been convicted of either any felony offense or any other offense that involves both moral turpitude, dishonesty, or fraud, and bears on the applicant's ability to perform the duties or responsibilities of a fingerprint roller. The certification shall be revoked if, at any time, the individual is convicted of either any felony offense, or any other offense that involves both moral turpitude, dishonesty, or fraud, and bears on the applicant's ability to perform the duties or responsibilities of a fingerprint roller.

(g) In addition to subdivision (f), the department may refuse to certify any individual as a fingerprint roller or make, revoke, or suspend the certification of any fingerprint roller upon any of the following:

(1) Substantial and material misstatement or omission in the application submitted to the department.

(2) If the individual has been convicted of or is awaiting adjudication for a felony or a lesser offense involving moral turpitude, or a lesser offense of a nature incompatible with the duties of a fingerprint roller. A conviction after a plea of nolo contendere is deemed to be a conviction within the meaning of this subdivision.

(3) Revocation, suspension, restriction, or denial of a professional license, if the revocation, suspension, restriction, or denial was for misconduct, dishonesty, or for any cause substantially related to the duties or responsibilities of a fingerprint roller.

(4) Failure to discharge fully and faithfully any of the duties or responsibilities required of a fingerprint roller.

(5) Been adjudged liable for damages in any suit grounded in fraud, misrepresentation, or in violation of the state regulatory laws, or in any suit based upon a failure to discharge fully and faithfully the duties of a fingerprint roller.

(6) Use of false or misleading advertising in which the fingerprint roller has represented that he or she has duties, rights, or privileges that he or she does not possess by law.

(7) Commission of any act involving dishonesty, fraud, or deceit with the intent to substantially benefit the fingerprint roller or another, or to substantially injure another.

(8) Failure to submit any remittance payable upon demand by the department under this section or failure to satisfy any court ordered money judgment, including restitution.

(h) Commencing January 1, 2004, the department shall not accept applicant fingerprint impressions, manually or electronically, unless they were rolled by an individual certified under the Department of Justice Fingerprint Rolling Certification Program.

(i) The Department of Justice shall work with applicant regulatory entities to improve and make more efficient the criminal offender record information request process related to employment, licensing, and certification background investigations.

(j) The Department of Justice may adopt regulations as necessary to implement the provisions of this section.

(Added Sec. 1, Ch. 623, Stats. 2002. Effective January 1, 2003.)

12001. (a) (1) As used in this title, the terms "pistol," "revolver," and "firearm capable of being concealed upon the person" shall apply to and include any device designed to be used as a weapon, from which is expelled a projectile by the force of any explosion, or other form of combustion, and that has a barrel less than 16 inches in length. These terms also include any device that has a barrel 16 inches or more in length which is designed to be interchanged with a barrel less than 16 inches in length.

(2) As used in this title, the term "handgun" means any "pistol," "revolver," or "firearm capable of being concealed upon the person."

(b) As used in this title, "firearm" means any device, designed to be used as a weapon, from which is expelled through a barrel a projectile by the force of any explosion or other form of combustion.

(c) As used in Sections 12021, 12021.1, 12070, 12071, 12072, 12073, 12078, 12101, and 12801 of this code, and Sections 8100, 8101, and 8103 of the Welfare and Institutions Code, the term "firearm" includes the frame or receiver of the weapon.

(d) For the purposes of Sections 12025 and 12031, the term "firearm" also shall include any rocket, rocket propelled projectile launcher, or similar device containing any explosive or incendiary material whether or not the device is designed for emergency or distress signaling purposes.

(e) For purposes of Sections 12070, 12071, and paragraph (8) of subdivision (a), and subdivisions (b), (c), (d), and (f) of Section 12072, the term "firearm" does not include an unloaded firearm that is defined as an "antique firearm" in Section 921(a)(16) of Title 18 of the United States Code.

(f) Nothing shall prevent a device defined as a "handgun," "pistol," "revolver," or "firearm capable of being concealed upon the person" from also being found to be a short-barreled shotgun or a short-barreled rifle, as defined in Section 12020.

(g) For purposes of Sections 12551 and 12552, the term "BB device" means any instrument that expels a projectile, such as a BB or a pellet, not exceeding 6mm caliber, through the force of air pressure, gas pressure, or spring action, or any spot marker gun.

(h) As used in this title, "wholesaler" means any person who is licensed as a dealer pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto who sells, transfers, or assigns firearms, or parts of firearms, to persons who are licensed as manufacturers, importers, or gunsmiths pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code, or persons licensed pursuant to Section 12071, and includes persons who receive finished parts of firearms and assemble them into completed or partially completed firearms in furtherance of that purpose.

"Wholesaler" shall not include a manufacturer, importer, or gunsmith who is licensed to engage in those activities pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code or a person licensed pursuant to Section 12071 and the regulations issued pursuant thereto. A wholesaler also does not include those persons dealing exclusively in grips, stocks, and other parts of firearms that are not frames or receivers thereof.

(i) As used in Section 12071 ***or*** 12072, "application to purchase" means any of the following:

(1) The initial completion of the ***register*** by the purchaser, transferee, or person being loaned the firearm as required by subdivision ***(b)*** of Section ***12076***.

(2) The initial completion and transmission to the department of the record of electronic or telephonic transfer by the dealer on the purchaser, transferee, or person being loaned the firearm as required by subdivision (c) of Section 12076.

(j) For purposes of Section 12023, a firearm shall be deemed to be "loaded" whenever both the firearm and the unexpended ammunition capable of being discharged from the firearm are in the immediate possession of the same person.

(k) For purposes of Sections 12021, 12021.1, 12025, 12070, 12072, 12073, 12078, 12101, and 12801 of this code, and Sections 8100, 8101, and 8103 of the Welfare and Institutions Code, notwithstanding the fact that the term "any firearm" may be used in those sections, each firearm or the frame or receiver of the same shall constitute a distinct and separate offense under those sections.

(*l*) For purposes of Section 12020, a violation of that section as to each firearm, weapon, or device enumerated therein shall constitute a distinct and separate offense.

(m) Each application that requires any firearms eligibility determination involving the issuance of any license, permit, or certificate pursuant to this title shall include two copies of the applicant's fingerprints on forms prescribed by the Department of Justice. One copy of the fingerprints may be submitted to the United States Federal Bureau of Investigation.

(n) As used in this chapter, a "personal handgun importer" means an individual who meets all of the following criteria: :

(1) He or she is not a person licensed pursuant to Section 12071.

(2) He or she is not a licensed manufacturer of firearms pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code.

(3) He or she is not a licensed importer of firearms pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(4) He or she is the owner of a pistol, revolver, or other firearm capable of being concealed upon the person.

(5) He or she acquired that pistol, revolver, or other firearm capable of being concealed upon the person outside of California.

(6) He or she moves into this state on or after January 1, 1998, as a resident of this state.

(7) He or she intends to possess that pistol, revolver, or other firearm capable of being concealed upon the person within this state on or after January 1, 1998.

(8) The pistol, revolver, or other firearm capable of being concealed upon the person was not delivered to him or her by a person licensed pursuant to Section 12071 who delivered that firearm following the procedures set forth in Section ***12071.2*** and subdivision (c) of Section 12072.

(9) He or she, while a resident of this state, had not previously reported his or her ownership of that pistol, revolver, or other firearm capable of being concealed upon the person to the Department of Justice in a manner prescribed by the department that included information concerning him or her and a description of the firearm.

(10) The pistol, revolver, or other firearm capable of being concealed upon the person is not a firearm that is prohibited by subdivision (a) of Section 12020.

(11) The pistol, revolver, or other firearm capable of being concealed upon the person is not an assault weapon, as defined in Section 12276 or 12276.1.

(12) The pistol, revolver, or other firearm capable of being concealed upon the person is not a machinegun, as defined in Section 12200.

(13) The person is 18 years of age or older.

(o) For purposes of paragraph (6) of subdivision (n):

(1) Except as provided in paragraph (2), residency shall be determined in the same manner as is the case for establishing residency pursuant to Section 12505 of the Vehicle Code.

(2) In the case of members of the Armed Forces of the United States, residency shall be deemed to be established when he or she was discharged from active service in this state.

(p) As used in this code, "basic firearms safety certificate" means a certificate issued by the Department of Justice pursuant to Article 8 (commencing with Section 12800) of Chapter 6 of Title 2 of Part 4, prior to January 1, 2003.

(q) As used in this code, "handgun safety certificate" means a certificate issued by the Department of Justice pursuant to Article 8 (commencing with Section 12800) of Chapter 6 of Title 2 of Part 4, as that article is operative on or after January 1, 2003.

(r) As used in this title, "gunsmith" means any person who is licensed as a dealer pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto, who is engaged primarily in the business of repairing firearms, or making or fitting special barrels, stocks, or trigger mechanisms to firearms, or the agent or employee of that person.

(Amended Sec. 4, Ch. 715, Stats. 2005. Effective January 1, 2006.)

12022.55. Notwithstanding Section 12022.5, any person who, with the intent to inflict great bodily injury or death, inflicts great bodily injury, as defined in Section 12022.7, or causes the death of a person, other than an occupant of a motor vehicle, as a result of discharging a firearm from a motor vehicle in the commission of a felony or attempted felony, shall be punished by an additional and consecutive term of imprisonment in the state prison for 5, 6, or 10 years.

(Amended Sec. 5, Ch. 126, Stats. 2002. Effective January 1, 2003.)

12025. (a) A person is guilty of carrying a concealed firearm when he or she does any of the following:

(1) Carries concealed within any vehicle which is under his or her control or direction any pistol, revolver, or other firearm capable of being concealed upon the person.

(2) Carries concealed upon his or her person any pistol, revolver, or other firearm capable of being concealed upon the person.

(3) Causes to be carried concealed within any vehicle in which he or she is an occupant any pistol, revolver, or other firearm capable of being concealed upon the person.

(b) Carrying a concealed firearm in violation of this section is punishable, as follows:

(1) Where the person previously has been convicted of any felony, or of any crime made punishable by this chapter, as a felony.

(2) Where the firearm is stolen and the person knew or had reasonable cause to believe that it was stolen, as a felony.

(3) Where the person is an active participant in a criminal street gang, as defined in subdivision (a) of Section 186.22, under the Street Terrorism Enforcement and Prevention Act (Chapter 11 (commencing with Section 186.20) of Title 7 of Part 1), as a felony.

(4) Where the person is not in lawful possession of the firearm, as defined in this section, or the person is within a class of persons prohibited from possessing or acquiring a firearm pursuant to Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code, as a felony.

(5) Where the person has been convicted of a crime against a person or property, or of a narcotics or dangerous drug violation, by imprisonment in the state prison, or by imprisonment in a county jail not to exceed one year, by a fine not to exceed one thousand dollars ($1,000), or by both that imprisonment and fine.

(6) By imprisonment in the state prison, or by imprisonment in a county jail not to exceed one year, by a fine not to exceed one thousand dollars ($1,000), or by both that fine and imprisonment if both of the following conditions are met:

(A) Both the pistol, revolver, or other firearm capable of being concealed upon the person and the unexpended ammunition capable of being discharged from that firearm are either in the immediate possession of the person or readily accessible to that person, or the pistol, revolver, or other firearm capable of being concealed upon the person is loaded as defined in subdivision (g) of Section 12031.

(B) The person is not listed with the Department of Justice pursuant to paragraph (1) of subdivision (c) of Section 11106, as the registered owner of that pistol, revolver, or other firearm capable of being concealed upon the person.

(7) In all cases other than those specified in paragraphs (1) to (6), inclusive, by imprisonment in a county jail not to exceed one year, by a fine not to exceed one thousand dollars ($1,000), or by both that imprisonment and fine.

(c) A peace officer may arrest a person for a violation of paragraph (6) of subdivision (b) if the peace officer has probable cause to believe that the person is not listed with the Department of Justice pursuant to paragraph (1) of subdivision (c) of Section 11106 as the registered owner of the pistol, revolver, or other firearm capable of being concealed upon the person, and one or more of the conditions in subparagraph (A) of paragraph (6) of subdivision (b) is met.

(d) (1) Every person convicted under this section who previously has been convicted of a misdemeanor offense enumerated in Section 12001.6 shall be punished by imprisonment in a county jail for at least three months and not exceeding six months, or, if granted probation, or if the execution or imposition of sentence is suspended, it shall be a condition thereof that he or she be imprisoned in a county jail for at least three months.

(2) Every person convicted under this section who has previously been convicted of any felony, or of any crime made punishable by this chapter, if probation is granted, or if the execution or imposition of sentence is suspended, it shall be a condition thereof that he or she be imprisoned in a county jail for not less than three months.

(e) The court shall apply the three-month minimum sentence as specified in subdivision (d), except in unusual cases where the interests of justice would best be served by granting probation or suspending the imposition or execution of sentence without the minimum imprisonment required in subdivision (d) or by granting probation or suspending the imposition or execution of sentence with conditions other than those set forth in subdivision (d), in which case, the court shall specify on the record and shall enter on the minutes the circumstances indicating that the interests of justice would best be served by that disposition.

(f) Firearms carried openly in belt holsters are not concealed within the meaning of this section.

(g) For purposes of this section, "lawful possession of the firearm" means that the person who has possession or custody of the firearm either lawfully owns the firearm or has the permission of the lawful owner or a person who otherwise has apparent authority to possess or have custody of the firearm. A person who takes a firearm without the permission of the lawful owner or without the permission of a person who has lawful custody of the firearm does not have lawful possession of the firearm.

(h) (1) The district attorney of each county shall submit annually a report on or before June 30, to the Attorney General consisting of profiles by race, age, gender, and ethnicity of any person charged with a felony or a misdemeanor under this section and any other offense charged in the same complaint, indictment, or information.

(2) The Attorney General shall submit annually, a report on or before December 31, to the Legislature compiling all of the reports submitted pursuant to paragraph (1).

(3) This subdivision shall remain operative until January 1, 2005, and as of that date shall be repealed.

(Amended Sec. 2, Ch. 571, Stats. 1999. Effective January 1, 2000.)

12028.5. (a) As used in this section, the following definitions shall apply:

(1) "Abuse" means any of the following: :

(A) Intentionally or recklessly to cause or attempt to cause bodily injury.

(B) Sexual assault.

(C) To place a person in reasonable apprehension of imminent serious bodily injury to that person or to another.

(D) To molest, attack, strike, stalk, destroy personal property, or violate the terms of a domestic violence protective order issued pursuant to Part 4 (commencing with Section 6300) of Division 10 of the Family Code.

(2) "Domestic violence" means abuse perpetrated against any of the following persons:

(A) A spouse or former spouse.

(B) A cohabitant or former cohabitant, as defined in Section 6209 of the Family Code.

(C) A person with whom the respondent is having or has had a dating or engagement relationship.

(D) A person with whom the respondent has had a child, where the presumption applies that the male parent is the father of the child of the female parent under the Uniform Parentage Act (Part 3 (commencing with Section 7600) of Division 12 of the Family Code).

(E) A child of a party or a child who is the subject of an action under the Uniform Parentage Act, where the presumption applies that the male parent is the father of the child to be protected.

(F) Any other person related by consanguinity or affinity within the second degree.

(3) "Deadly weapon" means any weapon, the possession or concealed carrying of which is prohibited by Section 12020.

(b) A sheriff, undersheriff, deputy sheriff, marshal, deputy marshal, or police officer of a city, as defined in subdivision (a) of Section 830.1, a peace officer of the Department of the California Highway Patrol, as defined in subdivision (a) of Section 830.2, a member of the University of California Police Department, as defined in subdivision (b) of Section 830.2, an officer listed in Section 830.6 while acting in the course and scope of his or her employment as a peace officer, a member of a California State University Police Department, as defined in subdivision (c) of Section 830.2, a peace officer of the Department of Parks and Recreation, as defined in subdivision (f) of Section 830.2, a peace officer, as defined in subdivision (d) of Section 830.31, a peace officer, as defined in subdivisions (a) and (b) of Section 830.32, and a peace officer, as defined in Section 830.5, who is at the scene of a domestic violence incident involving a threat to human life or a physical assault, shall take temporary custody of any firearm or other deadly weapon in plain sight or discovered pursuant to a consensual or other lawful search as necessary for the protection of the peace officer or other persons present. Upon taking custody of a firearm or other deadly weapon, the officer shall give the owner or person who possessed the firearm a receipt. The receipt shall describe the firearm or other deadly weapon and list any identification or serial number on the firearm. The receipt shall indicate where the firearm or other deadly weapon can be recovered, the time limit for recovery as required by this section, and the date after which the owner or possessor can recover the firearm or other deadly weapon. No firearm or other deadly weapon shall be held less than 48 hours. Except as provided in subdivision (f), if a firearm or other deadly weapon is not retained for use as evidence related to criminal charges brought as a result of the domestic violence incident or is not retained because it was illegally possessed, the firearm or other deadly weapon shall be made available to the owner or person who was in lawful possession 48 hours after the seizure or as soon thereafter as possible, but no later than five business days after the ***owner or person who was in lawful possession demonstrates compliance with Section 12021.3***. In any civil action or proceeding for the return of firearms or ammunition or other deadly weapon seized by any state or local law enforcement agency and not returned within five business days following the initial seizure, except as provided in subdivision (d), the court shall allow reasonable attorney's fees to the prevailing party.

(c) Any peace officer, as defined in subdivisions (a) and (b) of Section 830.32, who takes custody of a firearm or deadly weapon pursuant to this section shall deliver the firearm within 24 hours to the city police department or county sheriff's office in the jurisdiction where the college or school is located.

(d) Any firearm or other deadly weapon that has been taken into custody that has been stolen shall be restored to the lawful owner, as soon as its use for evidence has been served, upon his or her identification of the firearm or other deadly weapon and proof of ownership, and after the law enforcement agency has complied with Section 12021.3.

(e) Any firearm or other deadly weapon taken into custody and held by a police, university police, or sheriff's department or by a marshal's office, by a peace officer of the Department of the California Highway Patrol, as defined in subdivision (a) of Section 830.2, by a peace officer of the Department of Parks and Recreation, as defined in subdivision (f) of Section 830.2, by a peace officer, as defined in subdivision (d) of Section 830.31, or by a peace officer, as defined in Section 830.5, for longer than 12 months and not recovered by the owner or person who has lawful possession at the time it was taken into custody, shall be considered a nuisance and sold or destroyed as provided in subdivision (c) of Section 12028. Firearms or other deadly weapons not recovered within 12 months due to an extended hearing process as provided in subdivision (j), are not subject to destruction until the court issues a decision, and then only if the court does not order the return of the firearm or other deadly weapon to the owner.

(f) In those cases in which a law enforcement agency has reasonable cause to believe that the return of a firearm or other deadly weapon would be likely to result in endangering the victim or the person reporting the assault or threat, the agency shall advise the owner of the firearm or other deadly weapon, and within 60 days of the date of seizure, initiate a petition in superior court to determine if the firearm or other deadly weapon should be returned. The law enforcement agency may make an ex parte application stating good cause for an order extending the time to file a petition. Including any extension of time granted in response to an ex parte request, a petition must be filed within 90 days of the date of seizure of the firearm or other deadly weapon.

(g) The law enforcement agency shall inform the owner or person who had lawful possession of the firearm or other deadly weapon, at that person"s last known address by registered mail, return receipt requested, that he or she has 30 days from the date of receipt of the notice to respond to the court clerk to confirm his or her desire for a hearing, and that the failure to respond shall result in a default order forfeiting the confiscated firearm or other deadly weapon. For the purposes of this subdivision, the person"s last known address shall be presumed to be the address provided to the law enforcement officer by that person at the time of the family violence incident. In the event the person whose firearm or other deadly weapon was seized does not reside at the last address provided to the agency, the agency shall make a diligent, good faith effort to learn the whereabouts of the person and to comply with these notification requirements.

(h) If the person requests a hearing, the court clerk shall set a hearing no later than 30 days from receipt of that request. The court clerk shall notify the person, the law enforcement agency involved, and the district attorney of the date, time, and place of the hearing. Unless it is shown by a preponderance of the evidence that the return of the firearm or other deadly weapon would result in endangering the victim or the person reporting the assault or threat, the court shall order the return of the firearm or other deadly weapon and shall award reasonable attorney's fees to the prevailing party.

(i) If the person does not request a hearing or does not otherwise respond within 30 days of the receipt of the notice, the law enforcement agency may file a petition for an order of default and may dispose of the firearm or other deadly weapon as provided in Section 12028.

(j) If, at the hearing, the court does not order the return of the firearm or other deadly weapon to the owner or person who had lawful possession, that person may petition the court for a second hearing within 12 months from the date of the initial hearing. If there is a petition for a second hearing, unless it is shown by clear

and convincing evidence that the return of the firearm or other deadly weapon would result in endangering the victim or the person reporting the assault or threat, the court shall order the return of the firearm or other deadly weapon and shall award reasonable attorney's fees to the prevailing party. If the owner or person who had lawful possession does not petition the court within this 12-month period for a second hearing or is unsuccessful at the second hearing in gaining return of the firearm or other deadly weapon, the firearm or other deadly weapon may be disposed of as provided in Section 12028.

(k) The law enforcement agency, or the individual law enforcement officer, shall not be liable for any act in the good faith exercise of this section.

(Amended Sec. 7, Ch. 715, Stats. 2005. Effective January 1, 2006.)

Person Carrying Firearms

12031.m. (a) (1) Every person who carries a loaded firearm on his or her person or in a vehicle while in any public place or on any public street in an incorporated city or in any public place or on any public street in a prohibited area of unincorporated territory is guilty of a misdemeanor.

(2) Notwithstanding paragraphs (2) and (3) of subdivision (a) of Section 836, a peace officer may make an arrest without a warrant:

(A) When the person arrested has violated this section, although not in the officer's presence.

(B) Whenever the officer has reasonable cause to believe that the person to be arrested has violated this section, whether or not this section has, in fact, been violated.

(3) (A) Every person convicted under this section who has previously been convicted of an offense enumerated in Section 12001.6, or of any crime made punishable under this chapter, shall serve a term of at least three months in a county jail, or, if granted probation, or if the execution or imposition of sentence is suspended, it shall be a condition thereof that he or she be imprisoned for a period of at least three months.

(B) The court shall apply the three-month minimum sentence except in unusual cases where the interests of justice would best be served by granting probation or suspending the imposition or execution of sentence without the minimum imprisonment required in this subdivision or by granting probation or suspending the imposition or execution of sentence with conditions other than those set forth in this subdivision, in which case, the court shall specify on the record and shall enter on the minutes the circumstances indicating that the interests of justice would best be served by that disposition.

(b) Subdivision (a) shall not apply to any of the following:

(1) Peace officers listed in Section 830.1 or 830.2, whether active or honorably retired, other duly appointed peace officers, honorably retired peace officers listed in subdivision (c) of Section 830.5, other honorably retired peace officers who during the course and scope of their employment as peace officers were authorized to, and did, carry firearms, full-time paid peace officers of other states and the federal government who are carrying out official duties while in California, or any person summoned by any of those officers to assist in making arrests or preserving the peace while the person is actually engaged in assisting that officer. Any peace officer described in this paragraph who has been honorably retired shall be issued an identification certificate by the law enforcement agency from which the officer has retired. The issuing agency may charge a fee necessary to cover any reasonable expenses incurred by the agency in issuing certificates pursuant to this paragraph and paragraph (3).

Any officer, except an officer listed in Section 830.1, 830.2, or subdivision (c) of Section 830.5 who retired prior to January 1, 1981, shall have an endorsement on the identification certificate stating that the issuing agency approves the officer's carrying of a loaded firearm. No endorsement or renewal endorsement issued pursuant to paragraph (2) shall be effective unless it is in the format set forth in subparagraph (D) of paragraph (1) of subdivision (a) of Section 12027, except that any peace officer listed in subdivision (f) of Section 830.2 or in subdivision (c) of Section 830.5, who is retired between January 2, 1981, and on or before December 31, 1988, and who is authorized to carry a loaded firearm pursuant to this section, shall not be required to have an endorsement in the format set forth in subparagraph (D) of paragraph (1) of subdivision (a) of Section 12027 until the time of the issuance, on or after January 1, 1989, of a renewal endorsement pursuant to paragraph (2).

(2) A retired peace officer, except an officer listed in Section 830.1, 830.2, or subdivision (c) of 830.5 who retired prior to January 1, 1981, shall petition the issuing agency for renewal of his or her privilege to carry a loaded firearm every five years. An honorably retired peace officer listed in Section 830.1, 830.2, or subdivision (c) of 830.5 who retired prior to January 1, 1981, shall not be required to obtain an endorsement from the issuing agency to carry a firearm. The agency from which a peace officer is honorably retired may, upon initial retirement of the peace officer, or at any time subsequent thereto, deny or revoke, for good cause, the retired officer's privilege to carry a firearm. A peace officer who is listed in Section 830.1, 830.2, or subdivision (c) of 830.5 who is retired prior to January 1, 1981, shall have his or her privilege to carry a loaded firearm denied or revoked by having the agency from which the office retired stamp on the officer's identification certificate "No CCW privilege."

(3) An honorably retired peace officer who is listed in subdivision (c) of Section 830.5 and authorized to carry loaded firearms by this subdivision shall meet the training requirements of Section 832 and shall qualify with the firearm at least annually. The individual retired peace officer shall be responsible for maintaining his or her eligibility to carry a loaded firearm. The Department of Justice shall provide subsequent arrest notification pursuant to Section 11105.2 regarding honorably retired peace officers listed in subdivision (c) of Section 830.5 to the agency from which the officer has retired.

(4) Members of the military forces of this state or of the United States engaged in the performance of their duties.

(5) Persons who are using target ranges for the purpose of practice shooting with a firearm or who are members of shooting clubs while hunting on the premises of those clubs.

(6) The carrying of pistols, revolvers, or other firearms capable of being concealed upon the person by persons who are authorized to carry those weapons pursuant to Article 3 (commencing with Section 12050) of Chapter 1 of Title 2 of Part 4.

(7) Armored vehicle guards, as defined in Section 7521 of the Business and Professions Code, (A) if hired prior to January 1, 1977; or (B) if hired on or after that date, if they have received a firearms qualification card from the Department of Consumer Affairs, in each case while acting within the course and scope of their employment.

(8) Upon approval of the sheriff of the county in which they reside, honorably retired federal officers or agents of federal law enforcement agencies including, but not limited to, the Federal Bureau of Investigation, the Secret Service, the United States Customs Service, the Federal Bureau of Alcohol, Tobacco, and Firearms, the Federal Bureau of Narcotics, the Drug Enforcement Administration, the United States Border Patrol, and officers or agents of the Internal Revenue Service who were authorized to carry weapons while on duty, who were assigned to duty within the state for a period of not less than one year, or who retired from active service in the state.

Retired federal officers or agents shall provide the sheriff with certification from the agency from which they retired certifying their service in the state, the nature of their retirement, and indicating the agency's concurrence that the retired federal officer or agent should be accorded the privilege of carrying a loaded firearm.

Upon approval, the sheriff shall issue a permit to the retired federal officer or agent indicating that he or she may carry a loaded firearm in accordance with this paragraph. The permit shall be valid for a period not exceeding five years, shall be carried by the retiree while carrying a loaded firearm, and may be revoked for good cause.

The sheriff of the county in which the retired federal officer or agent resides may require recertification prior to a permit renewal, and may suspend the privilege for cause. The sheriff may charge a fee necessary to cover any reasonable expenses incurred by the county.

(c) Subdivision (a) shall not apply to any of the following who have completed a regular course in firearms training approved by the Commission on Peace Officer Standards and Training:

(1) Patrol special police officers appointed by the police commission of any city, county, or city and county under the express terms of its charter who also, under the express terms of the charter, (A) are subject to suspension or dismissal after a hearing on charges duly filed with the commission after a fair and impartial trial, (B) are not less than 18 years of age or more than 40 years of age, (C) possess physical qualifications prescribed by the commission, and (D) are designated by the police commission as the owners of a certain beat or territory as may be fixed from time to time by the police commission.

(2) The carrying of weapons by animal control officers or zookeepers, regularly compensated as such by a governmental agency when acting in the course and scope of their employment and when designated by a local ordinance or, if the governmental agency is not authorized to act by ordinance, by a resolution, either individually or by class, to carry the weapons, or by persons who are authorized to carry the weapons pursuant to Section 607f of the Civil Code, while actually engaged in the performance of their duties pursuant to that section.

(3) Harbor police officers designated pursuant to Section 663.5 of the Harbors and Navigation Code.

(d) Subdivision (a) shall not apply to any of the following who have been issued a certificate pursuant to Section 12033. The certificate shall not be required of any person who is a peace officer, who has completed all training required by law for the exercise of his or her power as a peace officer, and who is employed while not on duty as a peace officer.

(1) Guards or messengers of common carriers, banks, and other financial institutions while actually employed in and about the shipment, transportation, or delivery of any money, treasure, bullion, bonds, or other thing of value within this state.

(2) Guards of contract carriers operating armored vehicles pursuant to California Highway Patrol and Public Utilities Commission authority (A) if hired prior to January 1, 1977; or (B) if hired on or after January 1, 1977, if they have completed a course in the carrying and use of firearms which meets the standards prescribed by the Department of Consumer Affairs.

(3) Private investigators and private patrol operators who are licensed pursuant to Chapter 11.5 (commencing with Section 7512) of, and alarm company operators who are licensed pursuant to Chapter 11.6 (commencing with Section 7590) of, Division 3 of the Business and Professions Code, while acting within the course and scope of their employment.

(4) Uniformed security guards or night watch persons employed by any public agency, while acting within the scope and course of their employment.

(5) Uniformed security guards, regularly employed and compensated in that capacity by persons engaged in any lawful business, and uniformed alarm agents employed by an alarm company operator, while actually engaged in protecting and preserving the property of their employers or on duty or en route to or from their residences or their places of employment, and security guards and alarm agents en route to or from their residences or employer-required range training. Nothing in this paragraph shall be construed to prohibit cities and counties from enacting ordinances requiring alarm agents to register their names.

(6) Uniformed employees of private patrol operators and private investigators licensed pursuant to Chapter 11.5 (commencing with Section 7512) of Division 3 of the Business and Professions Code, while acting within the course and scope of their employment.

(e) In order to determine whether or not a firearm is loaded for the purpose of enforcing this section, peace officers are authorized to examine any firearm carried by anyone on his or her person or in a vehicle while in any public place or on any public street in an incorporated city or prohibited area of an unincorporated territory. Refusal to allow a peace officer to inspect a firearm pursuant to this section constitutes probable cause for arrest for violation of this section.

(f) As used in this section, "prohibited area" means any place where it is unlawful to discharge a weapon.

(g) A firearm shall be deemed to be loaded for the purposes of this section when there is an unexpended cartridge or shell, consisting of a case which holds a charge of powder and a bullet or shot, in, or attached in any manner to, the firearm, including, but not limited to, in the firing chamber, magazine, or clip thereof attached to the firearm; except that a muzzle-loader firearm shall be deemed to be loaded when it is capped or primed and has a powder charge and ball or shot in the barrel or cylinder.

(h) Nothing in this section shall prevent any person engaged in any lawful business, including a nonprofit organization, or any officer, employee, or agent authorized by that person for lawful purposes connected with that business, from having a loaded firearm within the person's place of business, or any person in lawful possession of private property from having a loaded firearm on that property.

(i) Nothing in this section shall prevent any person from carrying a loaded firearm in an area within an incorporated city while engaged in hunting, provided that the hunting at that place and time is not prohibited by the city council.

(j) (1) Nothing in this section is intended to preclude the carrying of any loaded firearm, under circumstances where it would otherwise be lawful, by a person who reasonably believes that the person or property of himself or herself or of another is in immediate, grave danger and that the carrying of the weapon is necessary for the preservation of that person or property. As used in this subdivision, "immediate" means the brief interval before and after the local law enforcement agency, when reasonably possible, has been notified of the danger and before the arrival of its assistance.

(2) A violation of this section is justifiable when a person who possesses a firearm reasonably believes that he or she is in grave danger because of circumstances forming the basis of a current restraining order issued by a court against another person or persons who has or have been found to pose a threat to his or her life or safety. This paragraph may not apply when the circumstances involve a mutual restraining order issued pursuant to Division 10 (commencing with Section 6200) of the Family Code absent a factual finding of a specific threat to the person's life or safety. It is not the intent of the Legislature to limit, restrict, or narrow the application of current statutory or judicial authority to apply this or other justifications to defendants charged with violating Section 12025 or of committing other similar offenses.

Upon trial for violating this section, the trier of fact shall determine whether the defendant was acting out of a reasonable belief that he or she was in grave danger.

(k) Nothing in this section is intended to preclude the carrying of a loaded firearm by any person while engaged in the act of making or attempting to make a lawful arrest.

(l) Nothing in this section shall prevent any person from having a loaded weapon, if it is otherwise lawful, at his or her place of residence, including any temporary residence or campsite.

(Amended Ch. 428, Stats. 1993. Effective January 1, 1994. Supersedes Ch. 224.)

12034. (a) It is a misdemeanor for a driver of any motor vehicle or the owner of any motor vehicle, whether or not the owner of the vehicle is occupying the vehicle, knowingly to permit any other person to carry into or bring into the vehicle a firearm in violation of Section 12031 of this code or Section 2006 of the Fish and Game Code.

(b) Any driver or owner of any vehicle, whether or not the owner of the vehicle is occupying the vehicle, who knowingly permits any other person to discharge any firearm from the vehicle is punishable by imprisonment in the county jail for not more than one year or in state prison for 16 months or two or three years.

(c) Any person who willfully and maliciously discharges a firearm from a motor vehicle at another person other than an occupant of a motor vehicle is guilty of a felony punishable by imprisonment in state prison for three, five, or seven years.

(d) Except as provided in Section 3002 of the Fish and Game Code, any person who willfully and maliciously discharges a firearm from a motor vehicle is guilty of a public offense punishable by imprisonment in the county jail for not more than one year or in the state prison.

(Amended Ch. 1147, Stats. 1987. Effective September 26, 1987.)

12303.1. Every person who willfully does any of the following is guilty of a felony and is punishable by imprisonment in the state prison for two, four, or six years:

(a) Carries any explosive or destructive device on any vessel, aircraft, car, or other vehicle that transports passengers for hire.

(b) Places or carries any explosive or destructive device, while on board any such vessel, aircraft, car or other vehicle, in any hand baggage, roll, or other container.

(c) Places any explosive or destructive device in any baggage which is later checked with any common carrier.

(Amended Ch. 579, Stats. 1978. Effective January 1, 1979.)

PUBLIC CONTRACT CODE

10326.1. (a) A campus or a facility of a California Community College or a campus or a facility of the California State University, that owns, leases, or otherwise has possession or control of a 15-passenger van, may not, on or after January 1, 2005, authorize the operation of that van for the purpose of transporting passengers unless the person driving or otherwise operating that van has both of the following:

(1) A valid class B driver's license, as provided in Division 6 (commencing with Section 12500) of the Vehicle Code, issued by the Department of Motor Vehicles.

(2) An endorsement for operating a passenger transportation vehicle, as provided in Article 6 (commencing with Section 15275) of Chapter 7 of Division 6 of the Vehicle Code, issued by the Department of Motor Vehicles.

(b) (1) Except as provided in paragraph (2), for purposes of this section, a "15-passenger van" means any van manufactured to accommodate 15 passengers, including the driver, regardless of whether that van has been altered to accommodate fewer than 15 passengers.

(2) For purposes of this section, a "15-passenger van" does not mean a 15-passenger van with dual rear wheels that has a gross weight rating equal to, or greater than, 11,500 pounds.

(c) The Legislature recommends that the Regents of the University of California adopt rules and regulations similar to the provisions contained in this section.

(Added Sec. 3, Ch. 559, Stats. 2003. Effective January 1, 2004.)

PUBLIC RESOURCES CODE

Vehicles in Hazardous Fire Areas

4442. (a) Except as otherwise provided in this section, no person shall use, operate, or allow to be used or operated, any internal combustion engine which uses hydrocarbon fuels on any forest-covered land, brush-covered land, or grass-covered land unless the engine is equipped with a spark arrester, as defined in subdivision (c), maintained in effective working order or the engine is constructed, equipped, and maintained for the prevention of fire pursuant to Section 4443.

(b) Spark arresters affixed to the exhaust system of engines or vehicles subject to this section shall not be placed or mounted in such a manner as to allow flames or heat from the exhaust system to ignite any flammable material.

(c) A spark arrester is a device constructed of nonflammable materials specifically for the purpose of removing and retaining carbon and other flammable particles over 0.0232 of an inch in size from the exhaust flow of an internal combustion engine that uses hydrocarbon fuels or which is qualified and rated by the United States Forest Service.

(d) Engines used to provide motive power for trucks, truck tractors, buses, and passenger vehicles, except motorcycles, are not subject to this section if the exhaust system is equipped with a muffler as defined in the Vehicle Code.

(e) Turbocharged engines are not subject to this section if all exhausted gases pass through the rotating turbine wheel, there is no exhaust bypass to the atmosphere, and the turbocharger is in effective mechanical condition.

(f) Motor vehicles when being operated in an organized racing or competitive event upon a closed course are not subject to this section if the event is conducted under the auspices of a recognized sanctioning body and by permit issued by the fire protection authority having jurisdiction.

(Amended Ch. 1333, Stats. 1982. Effective January 1, 1983.)

Notification of Spark Arrester Requirement

4442.5. No person shall sell, offer for sale, lease, or rent to any person any internal combustion engine subject to Section 4442 or 4443, and not subject to Section 13005 of the Health and Safety Code, unless the person provides a written notice to the purchaser or bailee, at the time of sale or at the time of entering into the lease or rental contract, stating that it is a violation of Section 4442 or 4443 to use or operate the engine on any forest-covered, brush-covered, or grass-covered land unless the engine is equipped with a spark arrester, as defined in Section 4442, maintained in effective working order or the engine is constructed, equipped, and maintained for the prevention of fire pursuant to Section 4443.

(Amended Ch. 1333, Stats. 1982. Effective January 1, 1983.)

Vehicle and Vessel Violation Within State Park System

5008. (a) The department shall protect the state park system and the state vehicular recreation area and trail system from damage and preserve the peace therein.

(b) The director may designate any officer or employee of the department as a peace officer. The primary duties of the peace officer shall be the enforcement of this division, Sections 4442 and 4442.5, the rules and regulations of the department, Chapter 5 (commencing with Section 650) of Division 3 of the Harbors and Navigation Code, the rules and regulations of the Department of Boating and Waterways, Chapter 2 (commencing with Section 9850) of Division 3.5 of the Vehicle Code, and Division 16.5 (commencing with Section 38000) of the Vehicle Code and to arrest persons for the commission of public offenses within the property under its jurisdiction. The authority and powers of the peace officer shall be limited to those conferred by law upon peace officers listed in Section 830.2 of the Penal Code.

(c) The department shall protect property included in the California recreational trail system and the property included in the recreational trail system under Section 6 of Chapter 1234 of the Statutes of 1980 from damage and preserve the peace therein. The primary duties of any officer or employee designated a peace officer under this section shall include enforcement of the rules and regulations established by the department under subdivision (l) of Section 6 of Chapter 1234 of the Statutes of 1980 and the arrest of persons for the commission of public offenses within the property included in the recreational trail system under Section 6 of Chapter 1234 of the Statutes of 1980.

(d) Any person who violates the rules and regulations established by the department is guilty of a misdemeanor and upon conviction shall be punished by imprisonment in the county jail not exceeding 90 days, or by a fine not exceeding one thousand dollars ($1,000), or by both that fine and imprisonment, except that at the time a particular action is commenced, the judge may, considering the recommendation of the prosecuting attorney, reduce the charged offense from a misdemeanor to an infraction. Any person convicted of the offense after such a reduction shall be punished by a fine of not less than ten dollars ($10) nor more than one thousand dollars ($1,000).

(Amended Ch. 1027, Stats. 1987. Effective January 1, 1988.)

5008.5. In any prosecution charging a violation within any unit of the state park system of the rules and regulations of the department, the provisions of Section 267 or Chapter 5 (commencing with Section 650) of Division 3 of the Harbors and Navigation Code, or the rules and regulations of the Department of Navigation and Ocean Development, proof by the people of the State of California that the vehicle or vessel described in the complaint was parked or placed in violation of any provision of such statutes or rules and regulations together with proof that the defendant named in the complaint was, at the time of such parking or placing, the registered owner of the vehicle or vessel, shall constitute prima facie evidence that the registered owner of the vehicle or vessel was the person who parked or placed the vehicle or vessel at the point where, and for the time during which, the violation occurred, but such proof that a person is the registered owner of a vehicle or vessel is not prima facie evidence that such person has violated any other provision of law. The above provisions shall apply only when there has been compliance with the procedure required by Section 41103 of the Vehicle Code.

Proof of a written lease of, or rental agreement for, a particular vehicle or vessel described in the complaint, on the date and time of such violation, which lease or rental agreement includes the name and address of the person to whom the vehicle or vessel is leased or rented, shall rebut the prima facie evidence that the registered owner was the person who parked or placed the vehicle at the time and place where the violation occurred.

Any charge under this section shall be dismissed when the person charged has made a bona fide sale or transfer of the vehicle or vessel and has delivered possession thereof to the purchaser and has complied with the requirements of subdivision (a) or (b) of Section 5602 of the Vehicle Code or with Section 710 of the Harbors and Navigation Code prior to the date of the alleged violation and has advised the court of the name and address of the purchaser.

(Amended Ch. 1184, Stats. 1970. Effective Nov. 23, 1970.)

California Environmental Protection Program

21190. There is in this state the California Environmental Protection Program, which shall be concerned with the preservation and protection of California's environment. In this connection, the Legislature hereby finds and declares that, since the inception of the program pursuant to the Marks-Badham Environmental Protection and Research Act, the Department of Motor Vehicles has, in the course of issuing environmental license plates, consistently informed potential purchasers of those plates, by means of a detailed brochure, of the manner in which the program functions, the particular purposes for which revenues from the issuance of those plates can lawfully be expended, and examples of particular projects and programs that have been financed by those revenues. Therefore, because of this representation by the Department of Motor Vehicles, purchasers come to expect and rely that the moneys paid by them will be expended only for those particular purposes, which results in an obligation on the part of the state to expend the revenues only for those particular purposes.

Accordingly, all funds expended pursuant to this division shall be used only to support identifiable projects and programs of state agencies, cities, cities and counties, counties, districts, the University of California, private nonprofit environmental and land acquisition organizations, and private research organizations which have a clearly defined benefit to the people of the State of California and which have one or more of the following purposes:

(a) The control and abatement of air pollution, including all phases of research into the sources, dynamics, and effects of environmental pollutants.

(b) The acquisition, preservation, restoration, or any combination thereof, of natural areas or ecological reserves.

(c) Environmental education, including formal school programs and informal public education programs. The State Department of Education may administer moneys appropriated for these programs, but shall distribute not less than 90 percent of moneys appropriated for the purposes of this subdivision to fund environmental education programs of school districts, other local schools, state agencies other than the State Department of Education, and community organizations. Not more than 10 percent of the moneys appropriated for environmental education may be used for State Department of Education programs or defraying administrative costs.

(d) Protection of nongame species and threatened and endangered plants and animals.

(e) Protection, enhancement, and restoration of fish and wildlife habitat and related water quality, including review of the potential impact of development activities and land use changes on that habitat.

(f) The purchase, on an opportunity basis, of real property consisting of sensitive natural areas for the state park system and for local and regional parks.

(g) Reduction or minimization of the effects of soil erosion and the discharge of sediment into the waters of the Lake Tahoe region, including the restoration of disturbed wetlands and stream environment zones, through projects by the California Tahoe Conservancy and grants to local public agencies, state agencies, federal agencies, and nonprofit organizations.

(Amended Ch. 821, Stats. 1991. Effective January 1, 1992.)

21191. (a) The California Environmental License Plate Fund which supersedes the California Environmental Protection Program Fund is continued in existence in the State Treasury, and consists of the moneys deposited in the fund pursuant to any provision of law. The Legislature shall establish the amount of fees for environmental license plates, which shall not be less than forty dollars ($40) for the issuance or twenty-five dollars ($25) for the renewal of an environmental license plate.

(b) The Controller shall transfer from the California Environmental License Plate Fund to the Motor Vehicle Account in the State Transportation Fund the amount appropriated by the Legislature for the reimbursement of costs incurred by the Department of Motor Vehicles in performing its duties pursuant to Sections 5004, 5004.5, and 5022 and Article 8.5 (commencing with Section 5100) of Chapter 1 of Division 3 of the Vehicle Code. The reimbursement from the California Environmental License Plate Fund shall only include those additional costs which are directly attributable to any additional duties or special handling necessary for the issuance, renewal, or retention of the environmental license plates.

(c) The Controller shall transfer to the post fund of the Veterans' Home of California, established pursuant to Section 1047 of the Military and Veterans Code, all revenue derived from the issuance of prisoner of war special license plates pursuant to Section 5101.5 of the Vehicle Code less the administrative costs of the Department of Motor Vehicles in that regard.

(d) The Director of Motor Vehicles shall certify the amounts of the administrative costs of the Department of Motor Vehicles in subdivision (c) to the Controller.

(e) The balance of the moneys in the California Environmental License Plate Fund shall be available for expenditure only for the exclusive trust purposes specified in Section 21190, upon appropriation by the Legislature. However, all moneys derived from the issuance of commemorative 1984 Olympic reflectorized license plates in the California Environmental License Plate Fund shall be used only for capital outlay purposes.

(f) All proposed appropriations for the program shall be summarized in a section in the Governor's Budget for each fiscal year and shall bear the caption "California Environmental Protection Program." The section shall contain a separate description of each project for which an appropriation is made. All such appropriations shall be made to the department performing the project and accounted for separately.

(g) The budget the Governor presents to the Legislature pursuant to subdivision (a) of Section 12 of Article IV of the California Constitution shall include, as proposed appropriations for the California Environmental Protection Program, only projects and programs recommended for funding by the Secretary of the Resources Agency pursuant to subdivision (a) of Section 21193. The Secretary of the Resources Agency shall consult with the Secretary for Environmental Protection before making any recommendations to fund projects pursuant to subdivision (a) of Section 21190.

(Amended Ch. 821, Stats. 1991. Effective January 1, 1992.)

PUBLIC UTILITIES CODE

"Common Carrier"

211. "Common carrier" means every person and corporation providing transportation for compensation to or for the public or any portion thereof, except as otherwise provided in this part.

"Common carrier" includes:

(a) Every railroad corporation; street railroad corporation; dispatch, sleeping car, dining car, drawing-room car, freight, freightline, refrigerator, oil, stock, fruit, car-loaning, car-renting, car-loading, and every other car corporation or person operating for compensation within this state.

(b) Every corporation or person, owning, controlling, operating, or managing any vessel used in the transportation of persons or property for compensation between points upon the inland waters of this state or upon the high seas between points within this state, except as provided in Section 212. "Inland waters" as used in this section includes all navigable waters within this state other than the high seas.

(c) Every "passenger stage corporation" operating within this state.

(Amended Sec. 3, Ch. 1042, Stats. 1996. Effective September 29, 1996.)

Persons or Corporations Not Included in "Common Carrier"

212. "Common carrier" shall not include:

(a) Any corporation or person owning, controlling, operating, or managing any vessel, by reason of the furnishing of water transportation service between points upon the inland waters of this state or upon the high seas between points within this state for affiliated or parent or subsidiary companies or for the products of other corporations or persons engaged in the same industry, if the water transportation service is furnished in tank vessels or barges specially constructed to hold liquids or fluids in bulk and if the service is not furnished to others not engaged in the same industry.

(b) Any corporation or person who operates any vessel for the transportation of persons for compensation, between points in this state if one terminus of every trip operated by the corporation or person is within the boundaries of a United States military reservation and is performed under a contract with an agency of the federal government which specifies the terms of service to be provided; and provided that the corporation or person does not perform any service between termini within this state which are outside of a United States military reservation. For the purposes of this subdivision, the conditions of this exemption shall be reviewed by the Public Utilities Commission annually as of the first day of January of each year.

(c) Any corporation or person owning, controlling, operating, or managing any recreational conveyance such as a ski lift, ski tow, J-bar, T-bar, chair lift, aerial tramway, or other device or equipment used primarily while participating in winter sports activities.

(d) Any corporation or person furnishing or otherwise providing transportation by horse, mule, or other equine animal for entertainment or recreational purposes.

(e) Any motor carrier of property, as defined in Section 34601 of the Vehicle Code.

(Amended Sec. 4, Ch. 1042, Stats. 1996. Effective September 29, 1996.)

Compliance with Safety Regulations

214.5. With respect to a motor vehicle used in the transportation of passengers for compensation by a passenger stage corporation, "owner" means the corporation or person who is registered with the Department of Motor Vehicles as the owner of the vehicle, or who has a legal right to possession of the vehicle pursuant to a lease or rental agreement.

(Amended Sec. 7, Ch. 1042, Stats. 1996. Effective September 29, 1996.)

216.5. Notwithstanding Section 216, "public utility" does not include a motor carrier of property.

(Added Sec. 8, Ch. 1042, Stats. 1996. Effective September 29, 1996.)

224.6. "Motor carrier of property" means a motor carrier of property as defined in Section 34601 of the Vehicle Code.

(Amended Sec. 10, Ch. 1042, Stats. 1996. Effective September 29, 1996.)

Passenger Stage Corporation

226. (a) "Passenger stage corporation" includes every corporation or person engaged as a common carrier, for compensation, in the ownership, control, operation, or management of any passenger stage over any public highway in this state between fixed termini or over a regular route except those, 98 percent or more of whose operations as measured by total route mileage operated, which are exclusively within the limits of a single city or city and county, or whose operations consist solely in the transportation of bona fide pupils attending an institution of learning between their homes and that institution.

For purposes of this section, the percentage of the route mileage within the limits of any city shall be determined by the Public Utilities Commission on the first day of January of each year, and the percentage so determined shall be presumed to continue for the year.

(b) "Passenger stage corporation" does not include that part of the operations of any corporation or person engaged in the ownership, control, operation, or management of any passenger stage over any public highway in this state, whether between fixed termini or over a regular route or otherwise, engaged in the transportation of any pupils or students to and from a public or private school, college, or university, or to and from activities of a public or private school, college, or university, where the rate, charge, or fare for that transportation is not computed, collected, or demanded on an individual fare basis.

"Passenger stage corporation" does not include the transportation of persons between home and work locations or of persons having a common work-related trip purpose in a vehicle having a seating capacity of 15 passengers or less, including the driver, which is used for the purpose of ridesharing, as defined in Section 522 of the Vehicle Code, when the ridesharing is incidental to another purpose of the driver. This exemption also applies to a vehicle having a seating capacity of more than 15 passengers if the driver files with the commission evidence of liability insurance protection in the same amount and in the same manner as required for a passenger stage corporation, and the vehicle undergoes and passes an annual safety inspection by the Department of the California Highway Patrol. The insurance filing shall be accompanied by a one-time filing fee of seventy-five dollars ($75). This exemption does not apply if the primary purpose for the transportation of those persons is to make a profit. "Profit" as used in this subdivision does not include the recovery of the actual costs incurred in owning and operating a vanpool vehicle, as defined in Section 668 of the Vehicle Code.

(d) "Passenger stage corporation" does not include that part of the operations of any corporation or person engaged in the ownership, control, operation, or management of any medical transportation vehicles, including vehicles employed to transport developmentally disabled persons for regional centers established pursuant to Chapter 5 (commencing with Section 4620) of Division 4.5 of the Welfare and Institutions Code.

(e) "Passenger stage corporation" does not include the transportation of persons which is ancillary to commercial river rafting and is for the sole purpose of returning passengers to the point of origin of their rafting trip.

(f) "Passenger stage corporation" does not include social service transportation delivered by a nonprofit social service transportation provider or a locally licensed or franchised for-profit transportation provider which operates, in dedicated vehicles, social service transportation pursuant to contract with a non-profit social service transportation provider organization as long as the provider does not use a vehicle designed for carrying more than 16 persons, including the driver, or does not operate vehicles which offer transportation services over regularly scheduled or fixed routes.

(g) "Passenger stage corporation" does not include intrastate passenger transportation service conducted pursuant to federal operating authority to the extent that regulation of these intrastate operations by the commission is preempted by the federal Bus Regulatory Reform Act of 1982 (P.L. 97-261), as amended.

(Amended Ch. 122, Stats. 1988. Effective June 1, 1988.)

Power of Commission to Establish Rates, Examine Books, and Hear Complaints regarding Railroads and Other Transportation Companies

728.5. (a) The commission may establish rates or charges for the transportation of passengers and freight by railroads and other transportation companies, except motor carriers of property, and no railroad or other transportation company under its jurisdiction, except motor carriers of property, shall charge or demand or collect

or receive a greater or less or different compensation for that transportation of passengers or freight, or for any service in connection therewith, between the points named in any tariff of rates established by the commission than the rates, fares and charges which are specified in that tariff. The commission may examine books, records and papers of all railroad and other transportation companies, except motor carriers of property; may hear and determine complaints against railroad and other transportation companies; and may issue subpoenas and all necessary process and send for persons and papers. The commission and each of the commissioners may administer oaths, take testimony and punish for contempt in the same manner and to the same extent as courts of record. The commission may prescribe a uniform system of accounts to be kept by all railroad and other transportation companies, except motor carriers of property.

(b) Subdivision (a) is not applicable to network railroad transportation.

(Amended Sec. 35, Ch. 1005, Stats. 1999. Effective January 1, 2000.)

1033.7. (a) Upon receipt of a written recommendation from the Department of the California Highway Patrol that the certificate of a passenger stage corporation be suspended either (1) for failure to maintain any vehicle used in transportation for compensation in a safe operating condition or to comply with the Vehicle Code or with regulations contained in Title 13 of the California Code of Regulations relative to motor carrier safety, if that failure is either a consistent failure or presents an imminent danger to public safety, or (2) for failure to comply with the pull notice system or periodic report requirements required by Section 1808.1 of the Vehicle Code, the commission shall, pending a hearing in the matter pursuant to subdivision (d), suspend the corporation's certificate. The department's written recommendation shall specifically indicate compliance with subdivision (c).

(b) A corporation whose certificate is suspended pursuant to subdivision (a) may obtain a reinspection of its terminal and vehicles by the department, by submitting a written request for reinstatement to the commission and paying a reinstatement fee of one hundred twenty-five dollars ($125). The commission shall deposit all reinstatement fees collected pursuant to this subdivision in the Public Utilities Commission Transportation Reimbursement Account. The commission shall forward a request for reinspection to the department which shall perform a reinspection within a reasonable time. The commission shall reinstate a corporation's certificate suspended under subdivision (a) promptly upon receipt of a written recommendation from the department that the corporation's safety compliance has improved to the satisfaction of the department, unless the certificate is suspended for another reason or has been revoked.

(c) Before transmitting a recommendation pursuant to subdivision (a) to the commission, the Department of the California Highway Patrol shall notify the passenger stage corporation in writing of all of the following:

(1) That the department has determined that the corporation's safety record is unsatisfactory, furnishing a copy of any documentation or summary of any other evidence supporting the determination.

(2) That the determination may result in a suspension or revocation of the corporation's certificate by the commission.

(3) That the corporation may request a review of the determination by the department within five days of its receipt of the notice required under this subdivision. If a review pursuant to this paragraph is requested by the corporation, the department shall conduct and evaluate that review prior to transmitting any notification to the commission pursuant to subdivision (a).

(d) Whenever the commission suspends the certificate of any passenger stage corporation pursuant to subdivision (a), the commission shall furnish the corporation written notice of the suspension and shall hold a hearing within a reasonable time, not to exceed 21 days, after a written request therefor is filed with the commission, with a copy thereof furnished to the Department of the California Highway Patrol. At the hearing, the corporation shall show cause why the suspension should not be continued. At the conclusion of the hearing, the commission may, in addition to any other applicable penalty provided in this part, terminate the suspension, continue the suspension in effect, or revoke the certificate. The commission may revoke the certificate of any passenger stage corporation suspended pursuant to subdivision (a) at any time 90 days or more after its suspension if the commission has not received a written recommendation for reinstatement from the department and the corporation has not filed a written request for a hearing with the commission.

(e) If the commission, after a hearing, finds that a passenger stage corporation has continued to operate as such after its certificate has been suspended pursuant to subdivision (a), the commission shall do one of the following:

(1) Revoke the certificate of the corporation.

(2) Impose upon the holder of the certificate a civil penalty of not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000) for each day of unlawful operations.

(Amended Ch. 927, Stats. 1991. Effective January 1, 1992.)

Common Carriers

1068. No common carrier shall operate any motor vehicle over any public highway unless there is displayed on the vehicle a distinctive identifying symbol in the form prescribed by the commission, showing the classification to which the carrier belongs.

No such identifying symbol shall be displayed on any vehicle until a certificate of public convenience and necessity has been issued to the carrier. The identifying symbols displayed by carriers subject to the Interstate Commerce Commission Order Ex Parte No. MC-41, Identification of Motor Carrier Vehicles, November 17, 1954, effective January 3, 1955, shall serve in lieu of the display requirements of this section, if the identifying symbols have been recorded by the carrier with the commission.

The identifying symbol shall be displayed on both the left and right doors of the cab of the vehicle.

(Added Ch. 472, Stats. 1988. Effective January 1, 1989.)

1070.5. (a) Upon receipt of a written recommendation from the Department of the California Highway Patrol that the certificate of a highway common carrier or cement carrier be suspended either: (1) for failure to maintain any vehicle used in transportation for compensation in a safe operating condition or to comply with the Vehicle Code or with regulations contained in Title 13 of the California Code of Regulations relative to motor carrier safety, if that failure is either a consistent failure or presents an imminent danger to public safety, or (2) for failure to comply with the pull notice system or periodic report requirements required by Section 1808.1 of the Vehicle Code, the commission shall, pending a hearing in the matter pursuant to subdivision (d), suspend the carrier's certificate. The department's written recommendation shall specifically indicate compliance with subdivision (c).

(b) A carrier whose certificate is suspended pursuant to subdivision (a) may obtain a reinspection of its terminal and vehicles by the department, by submitting a written request for reinstatement to the commission and paying a reinstatement fee of one hundred twenty-five dollars ($125). The commission shall deposit all reinstatement fees collected pursuant to this subdivision in the Transportation Rate Fund. The commission shall forward a request for reinspection to the department which shall perform a reinspection within a reasonable time. The commission shall reinstate a carrier's certificate suspended under subdivision (a) promptly upon receipt of a written recommendation from the department that the carrier's safety compliance has improved to the satisfaction of the department, unless the certificate is suspended for another reason or has been revoked.

(c) Before transmitting a recommendation pursuant to subdivision (a) to the commission, the Department of the California Highway Patrol shall notify the highway common carrier or cement carrier in writing of all of the following:

(1) That the department has determined that the carrier's safety record is unsatisfactory, furnishing a copy of any documentation or summary of any other evidence supporting the determination.

(2) That the determination may result in a suspension or revocation of the carrier's certificate by the commission.

(3) That the carrier may request a review of the determination by the department within five days of its receipt of the notice required under this subdivision. If a review pursuant to this paragraph is requested by the carrier, the department shall conduct and evaluate that review prior to transmitting any notification to the commission pursuant to subdivision (a).

(d) Whenever the commission suspends the certificate of any highway common carrier or cement carrier pursuant to subdivision (a), the commission shall furnish the carrier written notice of the suspension and shall hold a hearing within a reasonable time, not to exceed 21 days, after a written request therefor is filed with the

commission, with a copy thereof furnished to the Department of the California Highway Patrol. At the hearing, the carrier shall show cause why the suspension should not be continued. At the conclusion of the hearing, the commission may, in addition to any other applicable penalty provided in this part, terminate the suspension, continue the suspension in effect, or revoke the certificate. The commission may revoke the certificate of any highway common carrier or cement carrier suspended pursuant to subdivision (a) at any time 90 days or more after its suspension if the commission has not received a written recommendation for reinstatement from the department and the carrier has not filed a written request for a hearing with the commission.

(e) If the commission, after a hearing, finds that a highway common carrier or cement carrier has continued to operate as such a carrier after its certificate has been suspended pursuant to subdivision (a), the commission shall do one of the following:

(1) Revoke the certificate of the carrier.

(2) Impose upon the holder of the certificate a civil penalty of not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000) for each day of unlawful operations.

(Amended Ch. 927, Stats. 1991. Effective January 1, 1992.)

1077. It is unlawful for the owner of a highway common carrier or cement carrier motor vehicle employing or otherwise directing the driver of the vehicle to permit the operation of the vehicle upon any public highway for compensation without first having obtained from the commission a certificate pursuant to this chapter or without first having complied with the vehicle identification requirements or the accident liability protection requirements of the commission.

(Added Ch. 1093, Stats. 1988. Effective January 1, 1989.)

3942. The commission shall assist the Department of the California Highway Patrol in the removal from service of any vehicle of any highway carrier which has failed or refused to register with the commission or with its base registration state pursuant to this chapter. In this connection, the commission may direct employees of the commission to be in attendance at weigh stations and highway checkpoints, if requested by the department, and furnish commission records and information related to highway carriers for the purpose of ascertaining the status of a highway carrier's registration.

(Amended Ch. 312, Stats. 1993. Effective January 1, 1994.)

3951. The Department of Motor Vehicles and the Board of Equalization shall furnish information from their records to assist the Public Utilities Commission and the Department of the California Highway Patrol in the effective enforcement of this act.

(Repealed and Added Ch. 1715, Stats. 1984. Effective January 1, 1985.)

Chapter 2.5. Private Carriers of Passengers Act

(Amended Sec. 31, Ch. 1042, Stats. 1996. Effective September 29, 1996.)

Private Carriers' Registration Act

4000. This chapter may be cited as the Private Carriers of Passengers Registration Act.

(Amended Sec. 31, Ch. 1042, Stats. 1996. Effective September 29, 1996.)

4001. (a) For purposes of this chapter, "private carrier" means a not-for-hire motor carrier, as defined in Section 408 of the Vehicle Code, who transports passengers and is required to obtain a carrier identification number pursuant to Section 34507.5 of the Vehicle Code, but does not include persons providing transportation services specified in subdivision (k) or (*l*) of Section 5353.

(b) For purposes of this chapter, "department" means the Department of the California Highway Patrol.

(Amended Sec. 3, Ch. 652, Stats. 1997. Effective January 1, 1998.)

4002. The Department of Motor Vehicles and the State Board of Equalization shall furnish, upon request, whatever information from their records may be required to assist the commission and department in the effective enforcement of this chapter.

(Added Ch. 1025, Stats. 1989. Effective January 1, 1990.)

4005. Except as provided in Section 4008, no private carrier of passengers shall operate a motor vehicle on any public highway in this state unless its operation is currently registered with the commission. The commission shall grant registration upon the filing of the application and the payment of the fee as required by this article, subject to the private carrier of passengers' compliance with this chapter.

(Amended Sec. 33, Ch. 1042, Stats. 1996. Effective September 29, 1996.)

Fees

4007. (a) When the department issues a carrier identification number pursuant to Section 34507.5 of the Vehicle Code to a private carrier of passengers, it shall inform the carrier of the provisions of this chapter and the requirement that the carrier register with the Public Utilities Commission.

(b) The department shall periodically, but not less frequently than quarterly, transmit to the commission a list of the persons, firms, and corporations identified as private carriers of passengers to whom it has issued a carrier identification number. Upon receipt of the list, the commission shall notify the private carriers of passengers of the registration requirements and of the penalties for failure to register.

(Amended Sec. 68, Ch. 1005, Stats. 1999. Effective January 1, 2000.)

4015. A private carrier of passengers shall display the carrier identification number, as required by Section 34507.5 of the Vehicle Code, on the vehicles operated pursuant to the registration granted under this chapter.

(Amended Sec. 38, Ch. 1042, Stats. 1996. Effective September 29, 1996.)

Purpose of Chapter

5001. This chapter is enacted for the following purpose:

(a) Creating a special fund to administer and enforce the commission's jurisdiction to regulate household goods carriers.

(b) This chapter shall not apply to motor carriers of property who are required to register with the Department of Motor Vehicles under the Motor Carriers of Property Permit Act (Division 14.85 (commencing with Section 34600) of the Vehicle Code).

(Amended Sec. 43, Ch. 1042, Stats. 1996. Effective September 29, 1996.)

Household Goods Carrier

5110.5. With respect to a motor vehicle used in the transportation of property for compensation by a household goods carrier, "owner" means the corporation or person who is registered with the Department of Motor Vehicles as the owner of the vehicle, or who has a legal right to possession of the vehicle pursuant to a lease or rental agreement.

(Added Ch. 1093, Stats. 1988. Effective January 1, 1989.)

5140. It is unlawful for the owner of a household goods carrier motor vehicle employing or otherwise directing the driver of the vehicle to permit the operation of the vehicle upon any public highway for compensation without first having obtained from the commission a permit pursuant to this chapter or without first having complied with the vehicle identification requirements of Section 5132 or with the accident liability protection requirements of Section 5161.

(Added Ch. 1093, Stats. 1988. Effective January 1, 1989.)

Charter-Party Carrier of Passengers

5360. Subject to the exclusions of Section 5353, "charter-party carrier of passengers" means every person engaged in the transportation of persons by motor vehicle for compensation, whether in common or contract carriage, over any public highway in this state.

(Amended Ch. 101, Stats. 1983.)

5362. With respect to a motor vehicle used in the transportation of persons for compensation by a charter-party carrier of passengers, "owner" means the corporation or person who is registered with the Department of Motor Vehicles as the owner of the vehicle, or who has a legal right to possession of the vehicle pursuant to a lease or rental agreement.

(Added Ch. 1093, Stats. 1988. Effective January 1, 1989.)

5385.6. (a) No charter-party carrier shall operate a limousine as defined by Section 5371.4 unless the limousine is equipped with the special license plates issued and distributed by the Department of Motor Vehicles pursuant to Section 5011.5 of the Vehicle Code.

(b) The commission shall issue to each charter-party carrier operating limousines a permit or certificate for the number of vehicles verified by the carrier as employed in providing limousine service. The permit or certificate shall be submitted to the Department of Motor Vehicles, which will issue to each verified vehicle a set of unique, identifying license plates. The department shall maintain a record of each set of plates it issues and provide a copy of each record to the commission.

(c) The commission shall recover from any carrier whose permit or certificate is cancelled, suspended, or revoked any and all plates issued pursuant to this section.

(d) The special license plate shall be in lieu of the decal required to be issued and displayed pursuant to Section 5385.5.

(e) This section shall become operative on July 1, 1995.

(Amended Sec. 178, Ch. 193, Stats. 2004. Effective January 1, 2005.)

5386.1. Every charter-party carrier operating a limousine in every written or oral advertisement of the services it offers, shall state the number of its permit or license plate number.

This section shall become operative on July 1, 1995.

(Added Ch. 109, Stats. 1994. Effective June 27, 1994. Operative July 1, 1995.)

5411.5. (a) Whenever a peace officer arrests a person for a violation of Section 5411 involving the operation of a charter-party carrier of passengers without a valid certificate or permit at a public airport, within 100 feet of a public airport, or within two miles of the international border between the United States and Mexico, the peace officer may impound and retain possession of the vehicle used in violation of Section 5411.

(b) If the vehicle is seized from a person who is not the owner of the vehicle, the impounding authority shall immediately give notice to the owner by first-class mail.

(c) The vehicle shall immediately be returned to the owner without cost to the owner if the infraction or violation is not prosecuted or is dismissed, the owner is found not guilty of the offense, or it is determined that the vehicle was used in violation of Section 5411 without the knowledge and consent of the owner. Otherwise, the vehicle shall be returned to the owner upon payment of any fine ordered by the court. After the expiration of six weeks from the final disposition of the criminal case, the impounding authority may deal with the vehicle as lost or abandoned property under Section 1411 of the Penal Code.

(d) At any time, a person may make a motion in superior court for the immediate return of the vehicle on the ground that there was no probable cause to seize it or that there is some other good cause, as determined by the court, for the return of the vehicle. A proceeding under this section is a limited civil case.

(e) No peace officer, however, may impound any vehicle owned or operated by a nonprofit organization exempt from taxation pursuant to Section 501(c)(3) of the Internal Revenue Code which serves youth or senior citizens and provides transportation incidental to its programs or services.

(Amended Sec. 264, Ch. 62, Stats. 2003. Effective January 1, 2004.)

REVENUE AND TAXATION CODE

97.70. Notwithstanding any other provision of law, for the 2004–05 fiscal year and for each fiscal year thereafter, all of the following apply:

(a) (1) (A) The auditor shall reduce the total amount of ad valorem property tax revenue that is otherwise required to be allocated to a county's Educational Revenue Augmentation Fund by the countywide vehicle license fee adjustment amount.

(B) If, for the fiscal year, after complying with Section 97.68 there is not enough ad valorem property tax revenue that is otherwise required to be allocated to a county Educational Revenue Augmentation Fund for the auditor to complete the allocation reduction required by subparagraph (A), the auditor shall additionally reduce the total amount of ad valorem property tax revenue that is otherwise required to be allocated to all school districts and community college districts in the county for that fiscal year by an amount equal to the difference between the countywide vehicle license fee adjustment amount and the amount of ad valorem property tax revenue that is otherwise required to be allocated to the county Educational Revenue Augmentation Fund for that fiscal year. This reduction for each school district and community college district in the county shall be the percentage share of the total reduction that is equal to the proportion that the total amount of ad valorem property tax revenue that is otherwise required to be allocated to the school district or community college district bears to the total amount of ad valorem property tax revenue that is otherwise required to be allocated to all school districts and community college districts in a county. For purposes of this subparagraph, "school districts" and "community college districts" do not include any districts that are excess tax school entities, as defined in Section 95.

(2) The countywide vehicle license fee adjustment amount shall be allocated to the Vehicle License Fee Property Tax Compensation Fund that shall be established in the treasury of each county.

(b) (1) The auditor shall allocate moneys in the Vehicle License Fee Property Tax Compensation Fund according to the following:

(A) Each city in the county shall receive its vehicle license fee adjustment amount.

(B) Each county and city and county shall receive its vehicle license fee adjustment amount.

(2) The auditor shall allocate one-half of the amount specified in paragraph (1) on or before January 31 of each fiscal year, and the other one-half on or before May 31 of each fiscal year.

(c) For purposes of this section, all of the following apply:

(1) "Vehicle license fee adjustment amount" for a particular city, county, or a city and county means, subject to an adjustment under paragraph (2) and Section 97.71, all of the following:

(A) For the 2004–05 fiscal year, an amount equal to the difference between the following two amounts:

(i) The estimated total amount of revenue that would have been deposited to the credit of the Motor Vehicle License Fee Account in the Transportation Tax Fund, including any amounts that would have been certified to the Controller by the auditor of the County of Ventura under subdivision (j) of Section 98.02, as that section read on January 1, 2004, for distribution under the law in effect on January 1, 2004, to the county, city and county, or city for the 2004–05 fiscal year if the fee otherwise due under the Vehicle License Fee Law (Pt. 5 (commencing with Section 10701) of Div. 2) was 2 percent of the market value of a vehicle, as specified in Section 10752 and 10752.1 as those Sections read on January 1, 2004.

(ii) The estimated total amount of revenue that is required to be distributed from the Motor Vehicle License Fee Account in the Transportation Tax Fund to the county, city and county, and each city in the county for the 2004–05 fiscal year under Section 11005, as that section read on the operative date of this section.

(B) (i) Subject to an adjustment under clause (ii), for the 2005–06 fiscal year, the sum of the following two amounts:

(I) The difference between the following two amounts:

(Ia) The actual total amount of revenue that would have been deposited to the credit of the Motor Vehicle License Fee Account in the Transportation Tax Fund, including any amounts that would have been certified to the Controller by the auditor of the County of Ventura under subdivision (j) of Section 98.02, as that section read on January 1, 2004, for distribution under the law in effect on January 1, 2004, to the county, city and county, or city for the 2004–05 fiscal year if the fee otherwise due under the Vehicle License Fee Law (Part 5 (commencing with Section 10701) of Division 2) was 2 percent of the market value of a vehicle, as specified in Sections 10752 and 10752.1 as those sections read on January 1, 2004.

(Ib) The actual total amount of revenue that was distributed from the Motor Vehicle License Fee Account in the Transportation Tax Fund to the county, city and county, and each city in the county for the 2004–05 fiscal year under Section 11005, as that section read on the operative date of this section.

(II) The product of the following two amounts:

(IIa) The amount described in clause (i).

(IIb) The percentage change from the prior fiscal year to the current fiscal year in gross taxable assessed valuation within the jurisdiction of the entity, as reflected in the equalized assessment roll for those fiscal years. For the first fiscal year for which a change in a city's jurisdictional boundaries first applies, the percentage change in gross taxable assessed valuation from the prior fiscal year to the current fiscal year shall be calculated solely on the basis of the city's previous jurisdictional boundaries, without regard to the change in that city's jurisdictional boundaries. For each following fiscal year, the percentage change in gross taxable assessed valuation from the prior fiscal year to the current fiscal year shall be calculated on the basis of the city's current jurisdictional boundaries.

(ii) The amount described in clause (i) shall be adjusted as follows:

(I) If the amount described in subclause (I) of clause (i) for a particular city, county, or city and county is greater than the amount described in subparagraph (A) for that city, county, or city and county, the amount described in clause (i) shall be increased by an amount equal to this difference.

(II) If the amount described in subclause (I) of clause (i) for a particular city, county, or city and county is less than the amount described in subparagraph (A) for that city, county, or city and county, the amount described in clause (i) shall be decreased by an amount equal to this difference.

(C) For the 2006–07 fiscal year and for each fiscal year thereafter, the sum of the following two amounts:

(i) The vehicle license fee adjustment amount for the prior fiscal year, if Section 97.71 and clause (ii) of subparagraph (B) did not apply for that fiscal year, for that city, county, and city and county.

(ii) The product of the following two amounts:

(I) The amount described in clause (i).

(II) The percentage change from the prior fiscal year to the current fiscal year in gross taxable assessed valuation within the jurisdiction of the entity, as reflected in the equalized assessment roll for those fiscal years. For the first fiscal year for which a change in a city's jurisdictional boundaries first applies, the percentage change in gross taxable assessed valuation from the prior fiscal year to the current fiscal year shall be calculated solely on the basis of the city's previous jurisdictional boundaries, without regard to the change in that city's jurisdictional boundaries. For each following fiscal year, the percentage change in gross taxable assessed valuation from the prior fiscal year to the current fiscal year shall be calculated on the basis of the city's current jurisdictional boundaries.

(2) The amount determined under paragraph (1) for the County of Orange for a particular fiscal year shall be reduced by the amount that was allocated, if any, to that county under Sections 11001.5 and 11005 for the service of indebtedness for that fiscal year.

(3) "Countywide vehicle license fee adjustment amount" means, for any fiscal year, the total sum of the amounts described in paragraph (1) for a county or city and county, and each city in the county.

(4) On or before June 30 of each fiscal year, the auditor shall report to the Controller the vehicle license fee adjustment amount for the county and each city in the county for that fiscal year.

(d) For the 2005–06 fiscal year and each fiscal year thereafter, the amounts determined under subdivision (a) of Section 96.1, or any successor to that provision, shall not reflect, for a preceding fiscal year, any portion of any allocation required by this section.

(e) For purposes of Section 15 of Article XI of the California Constitution, the allocations from a Vehicle License Fee Property Tax Compensation Fund constitute successor taxes that are otherwise required to be allocated to counties and cities, and as successor taxes, the obligation to make those transfers as required by this section shall not be extinguished nor disregarded in any manner that adversely affects the security of, or the ability of, a county or city to pay the principal and interest on any debts or obligations that were funded or secured by that city's or county's allocated share of motor vehicle license fee revenues.

(f) This section shall not be construed to do any of the following:

(1) Reduce any allocations of excess, additional, or remaining funds that would otherwise have been allocated to county superintendents of schools, cities, counties, and cities and counties pursuant to clause (i) of subparagraph (B) of paragraph (4) of subdivision (d) of Sections 97.2 and 97.3 or Article 4 (commencing with Section 98) had this section not been enacted. The allocations required by this section shall be adjusted to comply with this paragraph.

(2) Require an increased ad valorem property tax revenue allocation or increased tax increment allocation to a community redevelopment agency.

(3) Alter the manner in which ad valorem property tax revenue growth from fiscal year to fiscal year is otherwise determined or allocated in a county.

(4) Reduce ad valorem property tax revenue allocations required under Article 4 (commencing with Section 98).

(g) Tax exchange or revenue sharing agreements, entered into prior to the operative date of this section, between local agencies or between local agencies and nonlocal agencies are deemed to be modified to account for the reduced vehicle license fee revenues resulting from the act that added this section. These agreements are modified in that these reduced revenues are, in kind and in lieu thereof, replaced with ad valorem property tax revenue from a Vehicle License Fee Property Tax Compensation Fund or an Educational Revenue Augmentation Fund.

(Added Sec. 21, Ch. 211, Stats. 2004. Effective August 5, 2004.)

225. (a) A trailer, semitrailer, logging dolly, pole or pipe dolly, or **trailer** bus, that has a valid identification plate issued to it pursuant to Section 5014.1 of the Vehicle Code, or any auxiliary dolly or tow dolly is exempt from personal property taxation.

(b) The exemption provided for in subdivision (a) does not apply to a logging dolly that is used exclusively off-highway.

(Amended Sec. 2, Ch. 826, Stats. 2001. Effective January 1, 2002.)

Exemption of Low-Value Vessel

228. (a) A vessel with a market value of four hundred dollars ($400) or less shall be free from taxation. This section shall only apply to vessels used or held for noncommercial purposes and shall not apply to lifeboats or other vessels used in conjunction with operations of vessels with a market value of more than four hundred dollars ($400). This section shall not apply to more than one vessel owned, claimed, possessed, or controlled by an assessee on the lien date.

(b) For purposes of this section, "vessel" includes every description of watercraft used or capable of being used as a means of transportation on water, except vessels described in paragraphs (1) and (2) of subdivision (c) of Section 651 of the Harbors and Navigation Code.

(c) For purposes of this section, "vessel" includes all equipment, including mode of power, and furnishings that are normally required aboard the vessel during the accomplishment of the functions for which the vessel is being utilized.

(Amended Ch. 1281, Stats. 1983. Effective September 29, 1983.)

Special Construction Equipment and Special Mobile Equipment

994. The following vehicles and equipment, with the exception of implements of husbandry which are subject to the provisions of Section 410 to 414, inclusive, shall be subject to the provisions of this section, notwithstanding the provisions of Section 10758:

(a) Steel-wheeled and track-laying equipment shall not be subject to the license fees imposed pursuant to Part 5 (commencing with Section 10701) of Division 2 of this code, but shall be assessed in the county where it has situs on the lien date.

(b) Rubber-tired equipment, except commercial vehicles and cranes registered under the Vehicle Code and which are licensed under Part 5 (commencing with Section 10701) of Division 2 of this code, which must be moved or operated under permit issued pursuant to Section 35780 of the Vehicle Code, shall be assessed in the county where it has situs on the lien date, but the assessee of such property shall be allowed to deduct from the amount of property tax the amount of any fee paid on such vehicle under Part 5 (commencing with Section 10701) of Division 2 of this code, if such fee is paid prior to the lien date for the calendar year in which the lien date occurs.

(c) Rubber-tired cranes and commercial vehicles which must be moved or operated under permit issued pursuant to Section 35780 of the Vehicle Code, and rubber-tired equipment that does not require a permit, which cranes, vehicles and equipment are registered under the Vehicle Code and licensed under Part 5 (commencing with Section 10701) of Division 2 of this code, shall not be otherwise assessed for purposes of property taxation.

(Amended Ch. 246, Stats. 1977. Effective January 1, 1978.)

Property Tax Delinquent Vessel

3205. (a) The county tax collector may, within 30 days after the delinquency date, give written notice to the owners of all property tax delinquent vessels that, in addition to standard county delinquent property tax procedures, the renewal of the certificate of number of, and the transfer of any title to or interest in, that vessel will be withheld by the Department of Motor Vehicles as provided in Section 9880 of the Vehicle Code, until the delinquent taxes have been paid on that vessel.

(b) If the county tax collector has given notice pursuant to subdivision (a), he or she shall give written notice of the delinquency, by electronic transmission or otherwise, to the Department of Motor Vehicles for its recordation pursuant to Section 9880 of the Vehicle Code. Upon receiving a possessory lien sale application filed with respect to a vessel pursuant to subdivision (a) of Section 503 of the Harbors and Navigation Code, the Department of Motor Vehicles shall, in accordance with paragraph (4) of subdivision (b) of that section, notify the applicant of any outstanding property tax lien on that vessel of which the department has been notified pursuant to this subdivision.

(c) If the county tax collector has given notice pursuant to subdivisions (a) and (b), the county tax collector shall also provide written notice to the Department of Motor Vehicles when the delinquency has been satisfied.

(Amended Ch. 940, Stats. 1994. Effective January 1, 1995.)

6012.3. ***For purposes of this part, "gross receipts" and "sales price" do not include that portion of the sales price returned to the purchaser of a used motor vehicle or the purchase price for the purchase of a contract cancellation option pursuant to Section 11713.21 of the Vehicle Code.***

(Added Sec. 6, Ch. 128, Stats. 2005. Effective January 1, 2006. Operative July 1, 2006.)

Vehicle Use Tax Law

6248. (a) On and after July 1, 2006, there shall be a rebuttable presumption that any vehicle bought outside of this State which is brought into California within 90 days from the date of its purchase, and which is subject to registration under Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, was acquired for storage, use, or other consumption in this State.

(b) This section shall become operative on July 1, 2006.

(Added Sec. 3, Ch. 226, Stats. 2004. Effective July 1, 2006.)

6249. A member of the armed services on active duty who purchases a vehicle prior to the effective date of his discharge shall not be subject to the presumption established by Section 6248. He shall not be deemed to have purchased the vehicle for storage, use or other consumption in this State unless at the time of purchase he intended to use it in this State, such intent resulting from his own determination, rather than from official orders received as a member of the armed services transferring him to this State.

(Added Ch. 1858, Stats. 1963.)

6263. No person, other than the manufacturer who has received authorization to sell the motor vehicle in California or a person authorized by the manufacturer, shall install a vehicle emission control label on any motor vehicle. No person shall remove, alter, deface, obscure, or destroy a vehicle emission control label or any label required to be affixed to any motor vehicle certified pursuant to the National Emissions Standards Act (42 U.S.C. Sec. 7521 et seq., and Subpart A (commencing with Sec. 86.078-3) of Part 86 of Title 40 of the Code of Federal Regulations). Any person who violates any provision of this section is guilty of a misdemeanor and is subject to a fine of not more than five thousand dollars ($5,000) or imprisonment in the county jail for not more than one year, or both that fine and imprisonment

(Amended Sec. 4, Ch. 32, Stats. 2000. Effective June 8, 2000.)

6272. "Vehicle" is as defined in Section 670 of the Vehicle Code and shall include off-highway motor vehicles subject to identification under Division 16.5 (commencing with Section 38000) of the Vehicle Code.

(Amended Ch. 1816, Stats. 1971. Operative July 1, 1972.)

6275. (a) Every person making any retail sale of a mobilehome or commercial coach required to be registered annually under the Health and Safety Code, or of a vehicle required to be registered under the Vehicle Code or subject to identification under Division 16.5 (commencing with Section 38000) of the Vehicle Code, or a vehicle that qualifies under the permanent trailer identification plate program pursuant to subdivision (a) of Section 5014.1 of the Vehicle Code, or of a vessel or an aircraft as defined in this article, is a retailer for the purposes of this part of the vehicle, vessel, or aircraft, regardless of whether he or she is a retailer by reason of other provisions of this part, unless another person is the retailer, as provided in subdivision (b).

(b) Every person, licensed or certificated under the Health and Safety Code or the Vehicle Code as a dealer, is the retailer of a mobilehome or commercial coach required to be registered annually under the Health and Safety Code or of a vehicle required to be registered under the Vehicle Code or subject to identification under Division 16.5 (commencing with Section 38000) of the Vehicle Code or a vehicle that qualifies under the permanent trailer identification plate program pursuant to subdivision (a) of Section 5014.1 of the Vehicle Code, when a retail sale of the vehicle is made through him or her and that person provides to the Department of Housing and Community Development or the Department of Motor Vehicles a notice of transfer with respect to the vehicle pursuant to Section 18080.5 of the Health and Safety Code or Section 5901 or Section 38200 of the Vehicle Code. That person shall hold a seller's permit and remit tax to the board with respect to those sales in the same manner as a dealer licensed or certificated under the Vehicle Code and making sales on his or her own account. For purposes of this subdivision, "sale" does not include a lease.

(Amended Sec. 6, Ch. 861, Stats. 2000. Effective September 29, 2000. Operative December 31, 2001.)

6277. There shall be a presumption that a transfer of a vehicle to a lessee by a lessor, as defined in Section 372 of the Vehicle Code, was a sale for resale if the lessee transfers title and registration to a third party within 10 days from the date the lessee acquired title from the lessor at the expiration or termination of a lease. The presumption may be rebutted by evidence that the sale was not for resale prior to use.

It is the intent of the Legislature in enacting this section to recognize the delay in processing documents when a lessee wishes to transfer title of a leased vehicle to a third party at the expiration or termination of a lease rather than acquiring a vehicle for his or her own use.

This section does not provide an exemption for any use by a lessee after the expiration or termination of a lease.

(Added Ch. 1284, Stats. 1976. Effective January 1, 1977.)

6281. There are exempted from the taxes imposed by this part the gross receipts from the sale of, and the storage, use, or other consumption in this state of, a mobilehome or commercial coach required to be annually registered under the Health and Safety Code, or a vehicle required to be registered under the Vehicle Code or subject to identification under Division 16.5 (commencing with Section 38000) of the Vehicle Code or a vessel or aircraft, when such property is included in any transfer of all or substantially all the property held or used in the course of business activities of the person selling the property and when after such transfer the real or ultimate ownership of such property is substantially similar to that which existed before such transfer. For the purposes of this section, stockholders, bondholders, partners, or other persons holding an interest in a corporation or other entity are regarded as having the "real or ultimate ownership" of the property of that corporation or other entity.

(Amended Ch. 975, Stats. 1981. Effective January 1, 1982.)

6282. There are exempted from the computation of the amount of the sales tax the gross receipts from sales of mobilehomes or commercial coaches required to be annually registered under the Health and Safety Code or vehicles required to be registered under the Vehicle Code when the retailer is other than a person licensed or certificated pursuant to the Health and Safety Code or the Vehicle Code as a manufacturer, remanufacturer, dealer, dismantler, or lessor-retailer, subject to Section 11615.5 of the Vehicle Code.

This exemption does not extend to the rentals payable under a lease of tangible personal property.

(Amended Ch. 1286, Stats. 1983. Effective January 1, 1984.)

6282.1. Notwithstanding the provisions of Section 6282, the gross receipts from the sale of boat trailers by persons in the business of selling boats or boat trailers are not exempt from the computation of the amount of sales tax.

(Added Ch. 5, Stats. 1966. Effective April 18, 1966. Operative July 1, 1966.)

6283. There are exempted from the computation of the amount of the sales tax the gross receipts from the sale of a vehicle subject to identification under Division 16.5 (commencing with Section 38000) of the Vehicle Code or of a vessel or of an aircraft when the retailer is other than a person required to hold a seller's permit pursuant to Article 2 (commencing with Section 6066) of Chapter 2 by reason of the number, scope, and character of his or her sales of those vehicles, vessels, or of aircraft, as the case may be. This exemption does not apply to sales of vehicles required to be identified under Division 16.5 (commencing with Section 38000) of the Vehicle Code when the retailer is a person licensed or certificated pursuant to the Vehicle Code as a manufacturer, remanufacturer, dealer, or dismantler.

(Amended Ch. 1286, Stats. 1983. Effective January 1, 1984.)

6284. If a person is engaged in the business of selling vehicles, mobilehomes, commercial coaches, vessels or aircraft he or she shall not be excused from the requirements of Article 2 (commencing with Section 6066) of Chapter 2 of this part, by reason of the exemptions provided in Sections 6282 and 6283.

(Amended Ch. 1589, Stats. 1982. Effective January 1, 1983.)

6285. There are exempted from the taxes imposed by this part the gross receipts from the sale of and the storage, use, or other consumption in this state of a mobilehome or commercial coach required to be registered annually under the Health and Safety Code, or of a vehicle required to be registered under the Vehicle Code, or of a vehicle subject to identification under Division 16.5 (commencing with Section 38000) of the Vehicle Code, or a vehicle that qualifies under the permanent trailer identification plate program pursuant to subdivision (a) of Section 5014.1 of the Vehicle Code, or of a vessel or an aircraft, when either of the following occurs:

(a) The person selling the property is either the parent, grandparent, child, grandchild, or spouse, or the brother or sister if the sale between that brother or sister is between two minors related by blood or adoption, of the purchaser, and the person selling is not engaged in the business of selling the type of property for which the exemption is claimed.

(b) The sale is to a revocable trust in which all of the following occur:

(1) The seller has an unrestricted power to revoke the trust.

(2) The sale does not result in any change in the beneficial ownership of the property.

(3) The trust provides that upon revocation the property will revert wholly to the seller.

(4) The only consideration for the sale is the assumption by the trust of an existing loan for which the tangible personal property being transferred is the sole collateral for the assumed loan.

(Amended Sec. 6.1, Ch. 861, Stats. 2000. Effective September 29, 2000. Operative December 31, 2001.)

6291. Notwithstanding Section 6451, the use taxes imposed by this part with respect to the storage, use or other consumption in this state of a mobilehome or commercial coach required to be registered annually under the Health and Safety Code, or of a vehicle required to be registered under the Vehicle Code, or of a vehicle subject to identification under Division 16.5 (commencing with Section 38000) of the Vehicle Code, or a vehicle that qualifies under the permanent trailer identification plate program pursuant to subdivision (a) of Section 5014.1 of the Vehicle Code, or of a vessel or an aircraft as defined in this chapter are due and payable by the purchaser at the time the storage, use, or other consumption of the property first becomes taxable. Delinquency penalties and interest with respect to use tax for mobilehomes or commercial coaches registered annually with the Department of Housing and Community Development or for vehicles registered with the Department of Motor Vehicles shall be as provided in Section 6292. Delinquency penalties and interest with respect to use tax for vehicles subject to identification under Division 16.5 (commencing with Section 38000) of the Vehicle Code or a vehicle that qualifies under the permanent trailer identification plate program pursuant to subdivision (a) of Section 5014.1 of the Vehicle Code shall be as provided in Section 6293. Delinquency

penalties and interest with respect to use tax for vessels and aircraft shall be imposed as if the due date of the tax were fixed by Section 6451.

(Amended Sec. 6.2, Ch. 861, Stats. 2000. Effective September 29, 2000. Operative December 31, 2001.)

6292. (a) Except when the sale is by lease, when a mobilehome or commercial coach required to be registered annually under the Health and Safety Code or a vehicle required to be registered under the Vehicle Code is sold at retail by other than a person licensed or certificated pursuant to the Health and Safety Code or the Vehicle Code as a manufacturer, remanufacturer, dealer, dismantler, or lessor-retailer, subject to Section 11615.5 of the Vehicle Code, the retailer is not required or authorized to collect the use tax from the purchaser, but the purchaser of the vehicle shall pay the use tax to the Department of Housing and Community Development acting for and on behalf of the board pursuant to Section 18123 of the Health and Safety Code or to the Department of Motor Vehicles acting for and on behalf of the board pursuant to Section 4750.5 of the Vehicle Code.

(b) If the purchaser makes an application to either department which is not timely, and is subject to penalty because of delinquency in effecting registration or transfer of registration of the vehicle, he or she then becomes liable also for penalty as specified in Section 6591, but no interest shall accrue.

(c) Application to the appropriate department by the purchaser relieves the purchaser of the obligation to file a return with the board under Section 6452.

(d) If the purchaser does not make application to either department, or does not pay the amount of use tax due, or files a return with the board under Section 6455 which is not timely, interest and penalties shall apply with respect to the unpaid amount as provided in Chapter 5 (commencing with Section 6451).

(Amended Ch. 236, Stats. 1991. Effective July 29, 1991, by means of an urgency clause.)

6293. (a) Except when the sale is by lease, when a vehicle subject to identification under Division 16.5 (commencing with Section 38000) of the Vehicle Code or a vehicle that qualifies under the permanent trailer identification plate program pursuant to subdivision (a) of Section 5014.1 of the Vehicle Code, is sold at retail by other than a person licensed or certificated pursuant to the Vehicle Code as a manufacturer, remanufacturer, dealer, dismantler, or lessor-retailer, subject to Section 11615.5 of the Vehicle Code, or a person required to hold a seller's permit pursuant to Article 2 (commencing with Section 6066) of Chapter 2 by reason of the number, scope, and character of his or her sales of those vehicles, the retailer is not required or authorized to collect the use tax from the purchaser, but the purchaser of the vehicle shall pay the use tax to the Department of Motor Vehicles acting for and on behalf of the board pursuant to Section 38211 of the Vehicle Code.

(b) If the purchaser makes an application to that department which is not timely, and is subject to penalty because of delinquency in effecting identification or transfer of ownership of the vehicle, he or she then becomes liable also for penalty as specified in Section 6591 of this code, but no interest shall accrue.

(c) Application to that department by the purchaser relieves the purchaser of the obligation to file a return with the board under Section 6452.

(d) If the purchaser does not make application to that department, or does not pay the amount of use tax due, or files a return with the board under Section 6455 which is not timely, interest and penalties shall apply with respect to the unpaid amount as provided in Chapter 5 (commencing with Section 6451).

(Amended Sec. 6.3, Ch. 861, Stats. 2000. Effective September 29, 2000. Operative December 31, 2001.)

6294. (a) When an undocumented vessel required to be registered under the Vehicle Code is sold at retail by other than a person holding a seller's permit and regularly engaged in the business of selling vessels, the retailer is not required or authorized to collect the use tax from the purchaser, but the purchaser of the vessel must pay the use tax to the Department of Motor Vehicles acting for, and on behalf of, the board pursuant to Section 9928 of the Vehicle Code.

(b) If the purchaser makes an application to the department which is not timely, and is subject to penalty because of delinquency in effecting registration or transfer of registration of the undocumented vessel, he or she then becomes liable also for penalty as specified in Section 6591, but no interest shall accrue.

(c) Application to the department by the purchaser shall relieve the purchaser of the obligation to file a return with the board under Section 6452.

(d) If the purchaser does not make application to either department, or does not pay the amount of use tax due, or files a return with the board under Section 6455 which is not timely, interest and penalties shall apply with respect to the unpaid amount as provided in Chapter 5 (commencing with Section 6451).

(Added Ch. 665, Stats. 1982. Effective January 1, 1983.)

6366.2. (a) There are exempted from the taxes imposed by this part the gross receipts from the sale of and the storage, use, or other consumption in this state of any new motor vehicle sold to a purchaser who is a resident of a foreign country and who arranges for the purchase through an authorized vehicle dealer in the foreign country prior to arriving in the United States, if the following conditions are met:

(1) The purchaser is issued an in-transit permit pursuant to Section 6700.1 of the Vehicle Code.

(2) Prior to the expiration of the in-transit permit issued to the purchaser, the retailer ships or drives the motor vehicle to a point outside the United States by means of facilities operated by the retailer, or by delivery to a carrier, customs broker or forwarding agent for shipment to that point.

(b) For purposes of this section, "carrier" means a person or firm engaged in the business of transporting for compensation tangible personal property owned by other persons, and includes both common and contract carriers. "Forwarding agent" means a person or firm engaged in the business of preparing property for shipment or arranging for its shipment.

(Added Ch. 762, Stats. 1989. Operative January 1, 1990.)

6367. There are exempted from the taxes imposed by this part the gross receipts from occasional sales of tangible personal property and the storage, use, or other consumption in this state of tangible personal property, the transfer of which to the purchaser is an occasional sale. This exemption does not apply to the gross receipts from the sale of, or to the storage, use, or other consumption in this state of, a mobilehome or commercial coach required to be annually registered under the Health and Safety Code, a vessel or aircraft, as defined in Article 1 (commencing with Section 6271) of Chapter 3.5 of this part, or a vehicle required to be registered under the Vehicle Code or a vehicle required to be identified under Division 16.5 (commencing with Section 38000) of the Vehicle Code or a vehicle that qualifies under the permanent trailer identification plate program pursuant to subdivision (a) of Section 5014.1 of the Vehicle Code. This section shall not preclude the exemption afforded under Section 6281.

(Amended Sec. 6.4, Ch. 861, Stats. 2000. Effective September 29, 2000. Operative December 31, 2001.)

6369.4. There are exempted from the taxes imposed by this part the gross receipts from the sale, and the storage, use, or other consumption, in this state of items and materials when used to modify a vehicle for physically handicapped persons.

(Added Ch. 959, Stats. 1978. Effective September 20, 1978 as a tax levy.)

New Trucks and Trailers Purchased from Foreign Dealers for Foreign Use but Delivered in State

6388. Where a new or remanufactured truck, truck tractor, semitrailer, or trailer, any of which has an unladen weight of 6,000 pounds or more, or a new or remanufactured trailer coach or a new or remanufactured auxiliary dolly, is purchased from a dealer located outside this state for use without this state and is delivered by the manufacturer or remanufacturer to the purchaser within this state, and the purchaser drives or moves the vehicle from the manufacturer's or remanufacturer's place of business in this state to any point outside this state within 30 days from and after the date of the delivery, there are exempted from the taxes imposed by this part the gross receipts from the sale of and the storage, use or other consumption of the vehicle within the state, if the purchaser furnishes the following to the manufacturer or remanufacturer:

(a) Written evidence of an out-of-state registration for the vehicle.

(b) The purchaser's affidavit attesting that he or she is not a resident of California and that he or she purchased the vehicle from a dealer at a specified location without the state for use outside this state.

(c) The purchaser's affidavit that the vehicle has been moved or driven to a point outside this state within 30 days of the date of the delivery of the vehicle to him or her.

(Amended Ch. 1286, Stats. 1983. Effective January 1, 1984.)

6388.5. Notwithstanding Section 6388, whenever a new or remanufactured trailer or semitrailer with an unladen weight of 6,000 pounds or more that has been manufactured or remanufactured outside this state is purchased for use without this state and is delivered by the manufacturer, remanufacturer, or dealer to the purchaser within this state, and the purchaser drives or moves the vehicle to any point outside this state within 30 days from and after the date of delivery, or whenever a new or remanufactured trailer or semitrailer with an unladen weight of 6,000 pounds or more that has been manufactured or remanufactured in this state is purchased for use without this state and is delivered by the manufacturer, remanufacturer, or dealer to the purchaser within this state, and the purchaser drives or moves the vehicle to any point outside this state within 75 days from and after the date of delivery, there are exempted from the taxes imposed by Part 1 (commencing with Section 6001), Part 1.5 (commencing with Section 7200), and Part 1.6 (commencing with Section 7251) the gross receipts from the sale of and the storage, use, or other consumption of the vehicle within the state, if the purchaser or the purchaser's agent furnishes the following to the manufacturer, remanufacturer, or dealer:

(a) (1) Written evidence of an out-of-state license and registration for the vehicle.

(2) In cases where the vehicle is subject to the permanent trailer identification plate program under Section 5014.1 of the Vehicle Code and is used exclusively in interstate or foreign commerce, or both, written evidence of the purchaser's or lessee's United States Department of Transportation number or Single State Registration System filing may be substituted for the written evidence described in paragraph (1).

(b) The purchaser's affidavit attesting that he or she purchased the vehicle from a dealer at a specified location for use exclusively outside this state, or exclusively in interstate or foreign commerce, or both.

(c) The purchaser's affidavit that the vehicle has been moved or driven to a point outside this state within the appropriate period of either 30 days or 75 days of the date of the delivery of the vehicle to him or her.

(Amended Sec. 2.5, Ch. 826, Stats. 2001. Effective January 1, 2002.)

6404. (a) The loan by any retailer of any tangible personal property to any school district for an educational program conducted by the district is exempt from the use tax.

(b) The loan by any retailer of any motor vehicle to the California State Colleges or the University of California for the exclusive use in an approved driver education teacher preparation certification program conducted by the state college or university is exempt from the use tax.

(c) The loan by any retailer of a motor vehicle to be used exclusively for driver training in an accredited private or parochial secondary school in a driver education and training program approved by the State Department of Education as a regularly conducted course of study is exempt from the use tax.

(d) The loan by any retailer of any motor vehicle to a veterans hospital or such other nonprofit facility or institution to provide instruction in the operation of specially equipped motor vehicles to disabled veterans is exempt from the use tax.

(e) If the retailer makes any other use of the property except retention, demonstration or display while holding it for sale in the regular course of business, the use is taxable to the retailer under Chapter 3 (commencing with Section 6201) of this part as of the time the property is first so used, and the sales price of the property to the retailer is the measure of the tax.

(Amended Ch. 1546, Stats. 1970. Effective September 20, 1970.)

6410. The storage, use, or other consumption in this state of new or used trailers or semitrailers which involves the moving or operation laden of those trailers or semitrailers in accordance with a one-trip permit issued pursuant to Section 4003.5 of the Vehicle Code is exempted from the use tax.

(Added Ch. 715, Stats. 1986. Effective January 1, 1987.)

6422.1. The board may provide for exemption certificates and other tax clearance certificates to be issued by it or by retailers selling vehicles as defined in Article 1 of Chapter 3.5 of this part, commercial coaches as defined in Section 18001.8 of the Health and Safety Code or mobilehomes as defined by Section 18008 of the Health and Safety Code. Such certificates shall be used to allow a completion of registration of a vehicle by the Department of Motor Vehicles or a commercial coach or mobilehome by the Department of Housing and Community Development. The certificates may indicate that the board finds that no use tax is due or is likely to become due with respect to the storage, use or other consumption of the vehicle, commercial coach, or mobilehome, or that the tax has been paid or is to be paid in a manner not requiring the withholding of a registration or transfer of registration. The certificates shall be in such form as the board may prescribe and shall be executed, issued and accepted for clearance of registration on such conditions as the board may prescribe. The issuance, alteration, forgery or use of any such certificate in a manner contrary to the requirements of the board constitutes a misdemeanor.

(Amended Ch. 1589, Stats. 1982. Effective January 1, 1983.)

6591. (a) Any person who fails to pay any tax to the state or any amount of tax required to be collected and paid to the state, except amounts of determinations made by the board under Article 2 (commencing with Section 6481) or Article 3 (commencing with Section 6511) of this chapter, within the time required shall pay a penalty of 10 percent of the tax or amount of the tax, in addition to the tax or amount of tax, plus interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the date on which the tax or the amount of tax required to be collected became due and payable to the state until the date of payment.

(b) Any person who fails to file a return in accordance with the due date set forth in Section 6451 or the due date established by the board in accordance with Section 6455, shall pay a penalty of 10 percent of the amount of taxes, exclusive of prepayments, with respect to the period for which the return is required.

(c) The penalties imposed by this section shall be limited to a maximum of 10 percent of the taxes for which the return is required, exclusive of any prepayments, for any one return.

(Amended Sec. 29, Ch. 1087, Stats. 1996. Effective January 1, 1997.)

6593. If the board finds that a person's failure to make a timely return or payment was due to a disaster, and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the person may be relieved of the interest provided by Sections 6459, 6480.4, 6480.8, 6513, 6591, and 6592.5.

Any person seeking to be relieved of the interest shall file with the board a statement under penalty of perjury setting forth the facts upon which he or she bases his or her claim for relief.

(Amended Ch. 1109, Stats. 1993. Effective January 1, 1994.)

6909. (a) The Controller shall transfer the amount of six hundred sixty-five million two hundred sixty-one thousand dollars ($665,261,000) from the General Fund to the Smog Impact Fee Refund Account, which is hereby created in the Special Deposit Fund.

(b) Notwithstanding Section 13340 of the Government Code, the moneys in the Smog Impact Fee Refund Account in the Special Deposit Fund are hereby continuously appropriated, without regard to fiscal years, to the Department of Motor Vehicles for the purpose of making refunds to persons who paid the smog impact fee formerly required by Chapter 3.3 (commencing with Section 6261) upon registering a vehicle in California. Each refund shall also include the amount of any penalties incurred by the payer with respect to the fee, and shall also include interest as specified in Sections 1673.2 and 1673.4 of the Vehicle Code. In addition, the appropriate level of court costs, fees, and expenses in the settlement of the case of Jordan v. Department of Motor Vehicles (1999) 75 Cal.App.4th 449, shall be determined through binding arbitration, and all of those fees, costs, or expenses shall be paid with funds from the account.

(c) The amount of any refund made under Section 1673.2 or Section 1673.4 of the Vehicle Code that is returned to the Department of Motor Vehicles because the recipient's mailing address as shown by the records of the department is incorrect shall be retained in the Smog Impact Fee Refund Account in the Special Deposit Fund until either of the following occurs:

(1) The department is able to ascertain the correct address of the recipient, at which time the refund shall be mailed to that address.

(2) The date upon which those funds are transferred from the Smog Impact Fee Refund Account in the Special Deposit Fund back to the General Fund.

(d) Any unencumbered balance remaining in the account on or after June 30, 2004, shall revert to the General Fund.

(e) The Legislature hereby finds and declares that the amount appropriated under subdivision (b) is a refund of taxes, as described in subdivision (a) of Section 8 of Article XIII of the Constitution, and, as a result, is not included within the "appropriations subject to limitation" of the state, as defined in that subdivision (a).

(Added Sec. 5, Ch. 32, Stats. 2000. Effective June 8, 2000.)

7205.1. (a) Notwithstanding any other provision of law, in connection with any use tax imposed pursuant to this part with respect to the lease (as described in Sections 371 and 372 of the Vehicle Code) of a new or used motor vehicle (as defined in Section 415 of the Vehicle Code) by a dealer or leasing company, the place of use for the reporting and transmittal of the use tax shall be determined as follows:

(1) If the lessor is a California new motor vehicle dealer (as defined in Section 426 of the Vehicle Code), or a leasing company, the place of use of the leased vehicle shall be deemed to be the city in which the lessor's place of business (as defined in Section 7205 and the regulations promulgated thereunder) is located.

(2) If a lessor, who is not a person described in paragraph (1), purchases the vehicle from a person as so described, the place of use of the leased vehicle shall be deemed to be the city in which the place of business (as defined in Section 7205 and the regulations promulgated thereunder) of the person from whom the lessor purchases the vehicle is located.

(3) The place of use as determined by this subdivision shall be the place of use for the duration of the lease contract, notwithstanding the fact that the lessor may sell the vehicle and assign the lease contract to a third party.

(b) Except as described in subdivision (a), this section shall not apply if the dealer or leasing company entering into the lease agreement is located outside of California.

(c) (1) The provisions of this section that are applicable to a California new motor vehicle dealer shall apply to lease transactions entered into on or after January 1, 1996.

(2) The provisions of this section, applicable to a leasing company, shall apply to lease transactions entered into on or after January 1, 1999.

(d) As used in this section, the following definitions shall apply:

(1) "City" means a city, city and county, or county.

(2) "Leasing company" means a motor vehicle dealer (as defined in Section 285 of the Vehicle Code), that complies with all of the following:

(A) The dealer originates lease contracts, described in subdivision (a), that are continuing sales and purchases.

(B) The dealer does not sell or assign those lease contracts that it originates in accordance with subparagraph (A).

(C) (i) The dealer has annual motor vehicle lease receipts of fifteen million dollars ($15,000,000) or more per location.

(ii) For purposes of this subparagraph, only those periodic payments required by the lease shall be considered in determining whether a lessor has annual receipts of fifteen million dollars ($15,000,000) or more. Amounts received by lessors attributable to capitalized cost reductions or amounts paid by a lessee upon his or her exercising an option shall not be considered in determining whether a lessor has annual lease receipts of fifteen million dollars ($15,000,000) or more.

(e) If the lessor is not a dealer described in paragraph (1) of subdivision (a), or a person who is described in paragraph (2) of subdivision (a) as purchasing from a dealer, the use tax shall be reported to and distributed through the countywide pool of the county in which the lessee resides.

(Amended Sec. 1, Ch. 140, Stats. 1998. Effective January 1, 1999.)

PART 1.55. MOTOR CARRIERS

Chapter 1. Motor Carriers of Property Permit Fee

(Added Sec. 48, Ch. 1042, Stats. 1996. Effective September 29, 1996.)

7231. (a) This chapter may be cited as the Motor Carriers of Property Permit Fee Act.

(b) The Legislature finds and declares that a safe and efficient transportation system is essential to the welfare of the state, and an important part of the system is service rendered by motor carriers of property.

(Amended Sec. 6, Ch. 652, Stats. 1997. Effective January 1, 1998.)

7232. (a) Every motor carrier of property shall annually pay a permit fee to the Department of Motor Vehicles. The fees contained in this section are due and shall be paid by each carrier at the time of application for an initial motor carrier permit, and upon annual renewal, with the Department of Motor Vehicles, pursuant to the Motor Carriers of Property Permit Act, as set forth in Division 14.85 (commencing with Section 34600) of the Vehicle Code. The Department of Motor Vehicles may, upon initial application for a motor carrier permit, assign an expiration date not less than six months, nor more than 18 months, from date of application, and may charge one-twelfth of the annual fee for each month covered by the initial permit. The fee paid by each motor carrier of property shall be based on the number of commercial motor vehicles operated in California by the motor carrier of property.

(b) As used in this chapter, "motor carrier of property" means any person who operates any commercial motor vehicle as defined in subdivision (d). "Motor carrier of property" does not include household goods carriers, as defined in Section 5109 of the Public Utilities Code, persons providing only transportation of passengers, or a passenger stage corporation transporting baggage and express upon a passenger vehicle incidental to the transportation of passengers.

(c) As used in this chapter, "for-hire motor carrier of property" means a motor carrier of property, as defined in subdivision (b), who transports property for compensation.

(d) As used in this chapter, "commercial motor vehicle" means any self-propelled vehicle listed in subdivisions (a), (b), (f), (g), and (k) of Section 34500 of the Vehicle Code, any motor truck of two or more axles that is more than 10,000 pounds gross vehicle weight rating, and any other motor vehicle used to transport property for compensation. "Commercial motor vehicle" does not include vehicles operated by household goods carriers, as defined in Section 5109 of the Public Utilities Code, pickup trucks as defined in Section 471 of the Vehicle Code, two-axle daily rental trucks with gross vehicle weight ratings less than 26,001 pounds when operated in noncommercial use or a motor truck or two-axle truck trailer operated in noncommercial use with a gross vehicle weight rating (GVWR) of less than 26,001 pounds used solely to tow a camp trailer, trailer coach, fifth wheel travel trailer, or utility trailer.

(e) The "number of commercial motor vehicles operated by the motor carrier of property" as used in this section means all of the commercial motor vehicles owned, registered to, or leased by the carrier. For interstate and foreign motor carriers of property the fees set forth in subdivision (a) shall be apportioned based on the percentage of fleet miles traveled in California in intrastate commerce. In the absence of records to establish intrastate fleet miles, the fees set forth in subdivision (a) shall be apportioned on total fleet miles traveled in California.

(f) For purposes of this chapter, "private carrier" means a motor carrier of property, as defined in subdivision (b), who does not transport any goods or property for compensation.

(g) (1) Fees contained in this chapter shall not apply to a motor carrier of property while engaged solely in interstate or foreign transportation of property by motor vehicle. No motor carrier of property shall engage in any interstate or foreign transportation of property for compensation by motor vehicle on any public highway in this state without first having registered the operation with the Department of Motor Vehicles or with the carrier's base registration state, if other than California, as determined in accordance with final regulations issued by the Interstate Commerce Commission pursuant to the Intermodal Surface Efficiency Act of 1991 (49 U.S.C. Sec. 11506). To register with the Department of Motor Vehicles, carriers specified in this subdivision shall comply with the following:

(A) When the operation requires authority from the Interstate Commerce Commission under the Interstate Commerce Act, or authority from another federal regulatory agency, a copy of that authority shall be filed with the initial application for registration. A copy of any additions or amendments to the authority shall be filed with the Department of Motor Vehicles.

(B) If the operation does not require authority from the Interstate Commerce Commission under the Interstate Commerce Act, or authority from another federal regulatory agency, an affidavit of that exempt status shall be filed with the application for registration.

(2) The Department of Motor Vehicles shall grant registration upon the filing of the application pursuant to applicable law and the payment of any applicable fees, subject to the carrier's compliance with this chapter.

(3) This subdivision does not apply to household goods carriers, as

defined in Section 5109 of the Public Utilities Code, and motor carriers engaged in the transportation of passengers for compensation.

(Amended Sec. 11, Ch. 1007, Stats. 1999. Effective January 1, 2000. Supersedes Ch. 1005.)

7233. No city, county, or city and county, shall assess, levy, or collect an excise or license tax of any kind, character, or description whatever upon the transportation business conducted on or after the effective date of this chapter, by any for-hire motor carrier of property.

(Amended Sec. 48, Ch. 1042, Stats. 1996. Effective September 29, 1996.)

7234. (a) The uniform business license tax fee imposed by this chapter is in lieu of all city, county, or city and county excise or license taxes of any kind, character, or description whatever, upon the transportation business of any for-hire motor carrier of property.

(b) This section does not prohibit the imposition by any city, county, or city and county, of any excise or license tax authorized under Division 2 (commencing with Section 6001).

(Added Sec. 48, Ch. 1042, Stats. 1996. Effective September 29, 1996.)

7235. The Safety Fee imposed by this chapter shall be paid by all motor carriers of property, as defined in Section 34601 of the Vehicle Code.

(Amended Sec. 1, Ch. 973, Stats. 2000. Effective January 1, 2001.)

7236. (a) Uniform business license tax fee payments collected by the Department of Motor Vehicles pursuant to Section 7232 shall be deposited in the State Treasury to the credit of the General Fund. All other funds collected by the Department of Motor Vehicles pursuant to Section 7232 shall be deposited in the State Treasury to the credit of the Motor Vehicle Account in the State Transportation Fund. The following fees shall be paid to the department:

(1) For-hire motor carriers of property shall pay, according to the following schedule, fees indicated as the safety fee and uniform business license tax fee, based on the size of their motor vehicle fleet.

(2) Private carriers of property with a fleet size of 10 or less motor vehicles shall pay a fee of thirty-five dollars ($35). Private carriers of property with a fleet size of 11 or more motor vehicles shall pay, according to the following schedule, fees indicated as the safety fee, based on the size of their motor vehicle fleet. Any carrier that does not pay a uniform business license tax fee shall not operate as a for-hire motor carrier.

(3) A seasonal permit may be issued to a motor carrier of property upon payment of fees indicated as the safety fee and one-twelfth of the fee indicated as the uniform business license tax fee, rounded to the next dollar, for each month the permit is valid. The original seasonal permit shall be valid for a period of not less than six months, and may be renewed upon payment of a five-dollar ($5) fee, and one-twelfth of the fee indicated as a uniform business license tax fee for each additional month of operation.

Fleet Size-Commercial Motor Vehicles Fee	Safety Fee	Uniform Business License Tax
1	$60	$60
2-4	$75	$125
5-10	$200	$275
11-20	$240	$470
21-35	$325	$650
36-50	$430	$880
51-100	$535	$1,075
101-200	$635	$1,300
201-500	$730	$1,510
501-1000	$830	$1,715
1001-2,000	$930	$1,900
2,001-over	$1,030	$2,000

Notwithstanding the above fee schedule, motor carriers of property with 10 or fewer trucks shall not pay fees higher than they would have paid under the fee structure in place as of January 1, 1996. Notwithstanding Section 34606 of the Vehicle Code, fees for these carriers shall not be subject to an increase by the Department of Motor Vehicles.

(b) Funds derived from safety fees shall remain in the Motor Vehicle Account in the State Transportation Fund and shall be available for appropriation by the Legislature to cover costs incurred by the Department of Motor Vehicles and the Department of the California Highway Patrol in regulating motor carriers of property pursuant to Division 14.85 (commencing with Section 34600) of the Vehicle Code.

(c) It is the intent of the Legislature that the fee schedule established in subdivision (a) shall not discriminate against small fleet or individual vehicle operators or result in a disproportionate share of those fees being assigned to small fleet or individual vehicle operators.

(Amended Sec. 2, Ch. 518, Stats. 2004. Effective January 1, 2005.)

Chapter 2. Motor Carrier Safety Improvement Fund

(Added Sec. 48, Ch. 1042, Stats. 1996. Effective September 29, 1996.)

7237. This chapter is enacted for the purpose of creating a special fund to cover the costs to the Department of the California Highway Patrol to deter commercial motor vehicle cargo thefts and provide security of highway carriers and cargoes throughout the state.

(Added Sec. 48, Ch. 1042, Stats. 1996. Effective September 29, 1996.)

7238. All money or fees deposited in the Motor Carriers Safety Improvement Fund shall be available for appropriation by the Legislature to cover the costs to the Department of the California Highway Patrol to deter commercial motor vehicle cargo thefts and provide security of highway carriers and cargoes throughout the state.

(Added Sec. 48, Ch. 1042, Stats. 1996. Effective September 29, 1996.)

7262.7. (a) In addition to the tax levied pursuant to Part 1.5 (commencing with Section 7200), and any other tax authorized by this part, the Board of Supervisors of the County of Stanislaus may impose a transactions and use tax by adoption of an ordinance in accordance with this part if each of the following conditions are met:

(1) The ordinance imposing the tax is submitted to and approved by the voters of the county in accordance with Article 3.7 (commencing with Section 53720) of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code.

(2) The tax is imposed at a rate of one-eighth of 1 percent for a period not to exceed five years.

(3) The revenues collected from the tax shall be used only for funding countywide library programs and operations.

(b) The Board of Supervisors of the County of Stanislaus may impose a transactions and use tax in any succeeding period not to exceed five years per period if all of the conditions specified in subdivision (a) are met for that succeeding period.

(Added Ch. 244, Stats. 1994. Effective January 1, 1995.)

8708. The board or its authorized representative may issue a California fuel trip permit to interstate users for entry into this state. The California fuel trip permit shall be valid for four consecutive days and includes any reentry into the state during the four-day period. The fee for issuance of a California fuel trip permit is thirty dollars ($30). Other provisions of this article and Article 1 (commencing with Section 8751) of Chapter 4 do not apply to the

holder of a California fuel trip permit who uses only fuel brought into this state in the fuel tank of a qualified motor vehicle and fuel purchased from, and delivered into the fuel tank of the qualified motor vehicle by, a vendor. Any use fuel tax paid to a vendor for fuel taken out of the state in the fuel tank of a qualified motor vehicle operated under a California fuel trip permit shall not be refunded to the holder of the permit, notwithstanding any other provisions of this part.

The board may enter into an interagency agreement with the Department of Motor Vehicles providing for the issuance of California fuel trip permits by that department.

(Amended Sec. 17, Ch. 609, Stats. 1998. Effective January 1, 1999.)

Use Fuel Tax Law

8995. The Department of Motor Vehicles may transfer the registered ownership of any motor vehicle using fuel taxable under this part only after a certificate of excise tax clearance has been issued by the board. The certificate may be issued after the payment of all amounts due under this part, according to the records of the board as of the date of the certificate, or after the payment of the amounts is secured to the satisfaction of the board.

An excise tax clearance certificate shall not be required to transfer the registered ownership of a passenger vehicle as defined in Section 465 of the Vehicle Code.

(Amended Ch. 260, Stats. 1979. Effective July 17, 1979.)

9256. Before registration of any motor vehicle, the Department of Motor Vehicles shall ascertain from the applicant for registration, whether or not the motor vehicle sought to be registered is propelled by a fuel the use of which is subject to the excise tax imposed under this part. If the motor vehicle is propelled by the use of such a fuel, the department shall notify the board.

Computation of Vehicle License Fee

10751. A license fee is hereby imposed for the privilege of operating upon the public highways in this state any vehicle of a type which is subject to registration under the Vehicle Code. Vehicles of banks, including national banking associations, shall be subject to all provisions of the Vehicle Code to the same extent and same manner as other vehicles, and shall be subject to this part.

(Amended Ch. 575, Stats 1975. Effective September 6, 1975. Operative March 8, 1976.)

10752. The annual amount of the license fee for any vehicle, other than a trailer or semitrailer, as described in subdivision (a) of Section 5014.1 of the Vehicle Code, or a trailer coach that is required to be moved under permit as authorized in Section 35790 of the Vehicle Code, shall be a sum equal to 2 percent, and on and after January 1, 2005, 0.65 percent, of the market value of the vehicle as determined by the department.

(Amended Sec. 30, Ch. 211, Stats. 2004. Effective August 5, 2004.)

10752.1. The annual amount of the license fee for a trailer coach which is required to be moved under permit as authorized in Section 35790 of the Vehicle Code shall be a sum equal to 2 percent, and on and after January 1, 2005, 0.65 percent, of the market value of the vehicle as determined by the department.

(Amended Sec. 31, Ch. 211, Stats. 2004. Effective August 5, 2004.)

10753. (a) Upon the first sale of a new vehicle to a consumer and upon each sale of a used vehicle to a consumer, the department shall determine the market value of the vehicle on the basis of the cost price to the purchaser as evidenced by a certificate of cost, but not including California sales or use tax or any local sales, transactions, use, or other local tax. "Cost price" includes the value of any modifications made by the seller.

(b) Notwithstanding subdivision (a), the department shall not redetermine the market value of used vehicles, or modify the vehicle license fee classification of used vehicles determined pursuant to Section 10753.2, when the seller is the parent, grandparent, child, grandchild, or spouse of the purchaser, and the seller is not engaged in the business of selling vehicles subject to registration under the Vehicle Code, or when a lessor, as defined in Section 372 of the Vehicle Code, transfers title and registration of a vehicle to the lessee at the expiration or termination of a lease.

(c) (1) In the event that any commercial vehicle is modified or additions are made to the chassis or body at a cost of two thousand dollars ($2,000) or more, but not including any change of engine of the same type or any cost of repairs to a commercial vehicle, the owner of the commercial vehicle shall report any modification or addition to the department and the department shall classify or reclassify the commercial vehicle in its proper class as provided in Section 10753.2, taking into consideration the increase in the market value of the commercial vehicle due to those modifications or additions, and any reclassification resulting in an increase in market value shall be based on the cost to the consumer of those modifications or additions. In the event any vehicle is modified or altered resulting in a decrease in the market value thereof of two hundred dollars ($200) or more as reported to and determined by the department, the department shall classify or reclassify the vehicle in its proper class as provided in Section 10753.2.

(2) Paragraph (1) does not apply under any of the following conditions:

(A) When the cost of any modification or addition to the chassis or body of a commercial vehicle is less than two thousand dollars ($2,000).

(B) When the cost is for modifications or additions necessary to incorporate a system approved by the State Air Resources Board as meeting the emission standards set forth in subdivisions (a) and (b) of former Section 39102 and former Section 39102.5 of the Health and Safety Code as they read on December 31, 1975.

(C) When the cost is for modifications that are necessary to enable a disabled person to use or operate the vehicle.

(3) For purposes of this subdivision, "commercial vehicle" means a "commercial vehicle," as defined in Section 260 of the Vehicle Code, that is regulated by the Department of the California Highway Patrol pursuant to Sections 2813 and 34500 of the Vehicle Code.

(d) This section also applies to a system as specified in subdivision (c) that is approved by the State Air Resources Board as meeting the emission standards specified in subdivisions (a) and (b) of former Section 39102 and former Section 39102.5 of the Health and Safety Code as they read on December 31, 1975, for vehicles 6,001 pounds or less, manufacturer's gross vehicle weight, controlled to meet exhaust emission standards when sold new, when that system is used in any vehicle over 6,001 pounds or any vehicle 6,001 pounds or less not controlled to meet exhaust emission standards.

(e) The temporary attachment of any camper, as defined in Section 243 of the Vehicle Code, to a vehicle is not a modification or addition for the purposes of subdivision (c).

(f) The attachment to a vehicle of radiotelephone equipment furnished by a telephone corporation, as defined in Section 234 of the Public Utilities Code, is not a modification or addition for the purpose of subdivision (c), when that equipment is not owned by the owner of the vehicle.

(g) For purposes of this section, "vehicle" does not include trailers or semitrailers.

(Amended Sec. 9, Ch. 594, Stats. 2003. Effective January 1, 2004.)

10753.2. (a) After determining the cost price to the purchaser, as provided in this article, the department shall classify or reclassify every vehicle, other than a trailer or semitrailer, as described in subdivision (a) of Section 5014.1 of the Vehicle Code, in its proper class according to the classification plan set forth in this section.

(b) For the purpose of this part, a classification plan is established consisting of the following classes: a class from zero dollars ($0) to and including forty-nine dollars and ninety-nine cents ($49.99); a class from fifty dollars ($50) to and including one hundred ninety-nine dollars and ninety-nine cents ($199.99); and thereafter a series of classes successively set up in brackets having a spread of two hundred dollars ($200), consisting of a number of classes that will permit classification of all vehicles.

(c) The market value of a vehicle, other than a trailer or semitrailer, as described in subdivision (a) of Section 5014.1 of the Vehicle Code, for each registration year, starting with the year the vehicle was first sold to a consumer as a new vehicle, or the year the vehicle was first purchased or assembled by the person applying for original registration in this state, or the year the vehicle was sold to the current registered owner as a used vehicle, shall be as follows: for the first year, 100 percent of a sum equal to the middle point between the extremes of its class as established in subdivision (b); for the second year, 90 percent of that sum; for the third year, 80 percent of that sum; for the fourth year, 70 percent of that sum; for the fifth year, 60 percent of that sum; for the sixth year, 50 percent of that sum; for the seventh year, 40 percent of that sum; for the eighth year, 30 percent of that sum; for the ninth year, 25 percent of that sum; and for the 10th year, 20 percent of that sum; and for the 11th year and each succeeding year, 15 percent of that sum; provided, however, that the minimum tax shall be the sum of one dollar ($1). Notwithstanding this subdivision, the market value of a trailer coach

first sold on and after January 1, 1966, that is required to be moved under permit as authorized in Section 35790 of the Vehicle Code, shall be determined by the schedule in Section 10753.3.

(d) Notwithstanding any other provision of law, this section is operative for the period beginning on and after the effective date of the act amending this subdivision.

(Amended Sec. 32, Ch. 211, Stats. 2004. Effective August 5, 2004.)

10753.3. (a) Except as otherwise provided in subdivision (b), the market value of a trailer coach which must be moved under permit, for each registration year of its life, shall be as follows: for the first year, 85 percent of a sum equal to the middle point between the extremes of its class as established in subdivision (b) of Section 10753.2; for the second year, 70 percent of such sum; for the third year, 55 percent of such sum; for the fourth year, 45 percent of such sum; for the fifth year, 40 percent of such sum; for the sixth year, 35 percent of such sum; for the seventh year, 30 percent of such sum; for the eighth year, 25 percent of such sum; for the ninth year, 24 percent of such sum; for the 10th year, 23 percent of such sum; for the 11th year, 22 percent of such sum; for the 12th year, 21 percent of such sum; for the 13th year, 20 percent of such sum; for the 14th year, 19 percent of such sum; for the 15th year, 18 percent of such sum; for the 16th year, 17 percent of such sum; for the 17th year, 16 percent of such sum; for the 18th year and each succeeding year, 15 percent of such sum.

(b) For the purposes of this section, the market value of vehicles which have been previously registered and which, because they are being converted to year-round registration, become subject to registration twice during the 1976 calendar year, shall be deemed to be the same throughout the 1976 calendar year and shall not change until the registration subsequently expires.

(Added Ch. 1051, Stats. 1974. Effective January 1, 1975.)

10753.4. (a) Notwithstanding any other provisions of law, every dealer who sells a trailer coach required to be moved under permit shall state on a certificate attached to the sales contract the cost price upon which the vehicle license fee is computed separately from the cost of accessories or other charges for such trailer coach.

(b) The department shall determine what items shall be included and what items shall not be included in the cost price upon which the vehicle license fee is computed for a trailer coach required to be moved under a permit and the manner of computation of such cost price. The department shall notify every dealer authorized to sell a trailer coach required to be moved under a permit of (1) the requirement that the sales contract state the cost price upon which the vehicle license fee is computed separately from the cost of accessories or other charges for such trailer coaches and (2) the manner in which such cost price is to be determined.

(Added Ch. 1043, Stats. 1976. Effective January 1, 1977.)

10753.5. Notwithstanding any other provisions of this part, the annual amount of the license fee for a vehicle that has been assigned a special identification plate or plates as described in Section 5004 of the Vehicle Code shall be two dollars ($2).

(Amended Sec. 1, Ch. 528, Stats. 2002. Effective January 1, 2003.)

10753.6. (a) Notwithstanding any other provisions of this part, the cost of any modifications to any vehicle which are necessary to enable a disabled person to use or operate such vehicle shall be excluded from the determination of the market value of the vehicle, for purposes of determining the license fee imposed by any provision of this part.

(b) (1) The department, pursuant to the request of a qualified disabled owner of a vehicle which was registered prior to the effective date of this section, shall exclude from the market value of such vehicle the cost of any modification or alteration required to adapt such vehicle to such disabled person's needs as either a driver or passenger, if such cost was previously included in the determination of the market value of such vehicle.

(2) There shall be no reduction in the amount of vehicle license fees or market value determination pursuant to this section with regard to fees imposed prior to the effective date of this section.

(3) For purposes of paragraph (1), a "qualified disabled owner" means a disabled person who qualifies for a distinguishing license plate or placard under Section 22511.5 of the Vehicle Code whose vehicle was registered prior to the effective date of this section.

(Added Ch. 373, Stats. 1977. Effective August 24, 1977 as a tax levy.)

10753.7. (a) Upon the sale or transfer of ownership of a used vehicle currently registered in this state, if any license fee due thereon has already been paid, no adjustment of the current year license fee shall be made.

(b) Any adjustment of vehicle license fees, based upon a redetermination of market value pursuant to subdivision (a) of Section 10753 and modification of vehicle license fee classification pursuant to Section 10753.2, shall occur upon the expiration of current registration and shall be reflected in the fees due for the first renewal of registration following the sale or transfer of ownership of that used vehicle.

(Amended Sec. 10, Ch. 594, Stats. 2003. Effective January 1, 2004.)

10754.1. For purposes of applying paragraph (1) of subdivision (b) of Section 10754, the vehicle license fees, due in 1998 on or before December 31 of that year for a vehicle subject to the International Registration Program as described in Section 8052 of the Vehicle Code, are deemed to have had a final due date in the 1999 calendar year. It is the intent of the Legislature that this section be implemented to apply the 25 percent offset specified in paragraph (1) of subdivision (a) of Section 10754 to the vehicle license fees described in the preceding sentence. The department shall apply the amount of each vehicle license fee reduction resulting from this section against the amount of vehicle license fees due and payable on the part of the relevant registrant in 1999.

(Added Sec. 1, Ch. 76, Stats. 1999. Effective July 7, 1999.)

10754.2. Notwithstanding any other provision of law to the contrary, all of the following apply to vehicle license fees with a final due date on or after January 1, 2001: (a) (1) For each vehicle license fee for the initial or original registration of any vehicle, never before registered in this state, or for any renewal of registration, with a final due date in 2001 or 2002, for which the vehicle license fee offset required by Section 10754 is less than 67½ percent, the Department of Motor Vehicles shall concurrently calculate an offset, in addition to the offset required by Section 10754, that is equal to the difference between the following: (A) A vehicle license fee offset of 67½ percent. (B) A vehicle license fee offset of the greater of 35 percent or that percentage required by Section 10754. (2) The Department of Motor Vehicles shall, for each calendar month, report to the Department of Finance and the Controller the amount of each offset calculated pursuant to paragraph (1) for that calendar month and the name and address of the taxpayer to whom that additional offset applies. The Controller shall, within 30 days after receiving a monthly report from the Department of Motor Vehicles, make payment of the reported additional offsets to the identified taxpayers. The Governor may direct the Controller to include, with each payment pursuant to this paragraph of an additional vehicle license fee offset, a notice stating that the additional vehicle license fee offsets required by this paragraph constitute a Prosperity Dividend approved by the Legislature and signed by Governor Davis. (3) (A) For each vehicle license fee, for the initial or original registration of any vehicle, never before registered in this state, or for any renewal of registration, with a final due date in 2001 or 2002, the vehicle license fee offset implemented pursuant to Section 10754 shall be not less than 35 percent. (B) For each vehicle license fee, for the initial or original registration of any vehicle, never before registered in this state, or for any renewal of registration with a final due date in 2003 or any calendar year thereafter, there shall be a 67½ percent offset as described in paragraph (5) of subdivision (a) of Section 10754, as that section read on January 1, 2000. In no event may the 67½ percent offset established by this subparagraph be reduced pursuant to paragraph (4) of subdivision (c) of Section 10754, or any successor to that paragraph. (b) (1) The additional vehicle license fee offsets established by subdivision (a) shall be funded from those amounts to be appropriated by statute. (2) Revenue losses to cities, counties, and cities and counties resulting from this section shall be reimbursed by the Controller from the General Fund in the same manner as provided in Section 11000. The amounts of General Fund transfers required by this subdivision are deemed to be vehicle license fee proceeds and vehicle license fee revenues for those same purposes as set forth in subdivision (d) of Section 11000, and are subject to the same pledges, liens, encumbrances, and priorities as described in that subdivision.

(Amended Sec. 2, Ch. 107, Stats. 2000. Effective July 10, 2000.)

10754.11. (a) (1) On August 15, 2006, the Controller shall transfer from the General Fund to the Gap Repayment Fund, which is hereby created in the State Treasury, an amount equal to the total

amount of offsets that were applied to new vehicle registrations before October 1, 2003, and that were applied to vehicle license fees with a due date before October 1, 2003, that were not transferred into the Motor Vehicle License Fee Account in the Transportation Tax Fund and the Local Revenue Fund due to the operation of Item 9100-102-0001 of Section 2.00 of the Budget Act of 2003. The amount of this transfer shall include transfers not made for offsets applied on or after June 20, 2003, transfers required under clause (iii) of subparagraph (B) of paragraph (2) of subdivision (a) of Section 11000 as that section read on June 30, 2004, and the additional amounts required to be transferred to the Local Revenue Fund pursuant to paragraph (2) of subdivision (a) of Section 11001.5 and paragraph (2) of subdivision (d) of that same section, less any amount that was appropriated under clause (iii) of subparagraph (D) of paragraph (3) of subdivision (a) of Section 10754, as that section read on June 30, 2004.

(2) The Controller may make the transfer required by paragraph (1) prior to August 15, 2006, if that transfer is authorized by the Legislature.

(b) Moneys in the Gap Repayment Fund are hereby appropriated to the Controller for allocation by the Controller to each city, county, and city and county in an amount equal to the amount that was not allocated to each of these entities due to the operation of Item 9100-102-001 of Section 2.00 of the Budget Act of 2003, less any amount that was allocated to each entity under clause (ii) of subparagraph (D) of paragraph (3) of subdivision (a) of Section 10754, as that section read on June 30, 2004.

(c) This section is operative for the period beginning on and after July 1, 2004.

(Amended Sec. 11, Ch. 610, Stats. 2004. Effective September 20, 2004.)

10755. Whenever, by reason of the assignment or reassignment of an expiration date by the Director of Motor Vehicles, the registration year for the vehicle is less than, or more than, 12 months, the fee for the vehicle shall be decreased or increased by one-twelfth of the annual fee for each month of such period less than, or in excess of, 12 months.

(Amended Ch. 889, Stats. 1973. Effective September 28, 1973.)

10756. If any vehicle which is exempt under Section 10781 or 10782 ceases to be so exempt by reason of change of ownership, the application shall be deemed an application for original registration for the purposes of determining the expiration date of the registration and subsequent renewals thereof.

(Amended Ch. 1330, Stats. 1974. Operative December 1, 1975.)

10757. (a) No additional license fee shall be imposed under this part upon any vehicle upon the transfer of ownership of the vehicle, except as provided under Section 9563 of the Vehicle Code, if any license fee due thereon has already been paid for the year in which the transfer of ownership occurs.

(b) In the event that additional fees are required on a vehicle due to a prior departmental error, no penalty shall be assessed against the application for the transfer of registration when the required additional fees are paid.

(Amended Ch. 1353, Stats. 1971. Effective March 4, 1972.)

10758. The license fee imposed under this part is in lieu of all taxes according to value levied for state or local purposes on vehicles of a type subject to registration under the Vehicle Code whether or not the vehicles are registered under the Vehicle Code.

"Vehicle of a type subject to registration under the Vehicle Code," as used in this section, includes, but is not limited to, (a) any motor vehicle in the inventory of vehicles held for sale by a manufacturer, remanufacturer, distributor, or dealer in the course of his or her business, (b) any unoccupied trailer coach in the inventory of trailer coaches held for sale by a manufacturer, remanufacturer, distributor, or dealer in the course of his or her business, or (c) any vehicle described in Section 5004 of the Vehicle Code, not used in a trade, profession, or business, whether or not the vehicle has been issued special identification plates.

(Amended Ch. 1286, Stats. 1983. Effective January 1, 1984.)

10759. In computing any fee, offset, or penalty imposed by this chapter, whether on a proration or otherwise, a fraction of a dollar is disregarded, unless it equals or exceeds fifty cents ($0.50), in which case it is treated as one full dollar ($1). Computation of any penalty shall be made from the fee after the same has been computed as provided in this section.

Any fee, offset, or penalty in an amount of forty-nine cents ($0.49) or less shall be deemed to be one dollar ($1).

(Amended Sec. 3, Ch. 322, Stats. 1998. Effective August 20, 1998.)

10759.5. (a) For purposes of determining the vehicle license fee imposed by this part, there are exempted from the determination of market value, the incremental costs of new light-duty motor vehicles propelled by alternative fuels, and certified by the State Air Resources Board as producing emissions that meet the emission standard for ultra-low-emission vehicles or lower as defined by the board. This exemption shall apply to the subsequent payments of the vehicle license fee.

(b) For purposes of this section, "incremental cost" means the amount determined by the State Energy Resources Conservation and Development Commission as the reasonable difference between the cost of the motor vehicle defined in subdivision (a) and the cost of a comparable gasoline or diesel fuel vehicle. This determination shall constitute the maximum incremental cost for purposes of the exemption in subdivision (a), and may be reduced by the actual sales price of the vehicle. The actual incremental cost shall be stated in the contract for sale or lease with the purchaser, and shall be reported to the commission quarterly.

(c) This section shall become operative on January 1, 1999, and shall remain in effect only until January 1, 2009, and as of that date is repealed.

(Amended Sec. 2, Ch. 566, Stats. 2002. Effective January 1, 2003.)

NOTE: The preceding section shall remain in effect only until January 1, 2009, and as of that date is repealed.

Trailer Coaches

10768. Sections 10853, 10854, 10855 and 10856 of this part do not apply to the license fee imposed with respect to trailer coaches.

10769. Whenever any trailer coach is in this State without the license fee having first been paid as required by Section 10851 of this part, the fee is delinquent.

10770. (a) If the fee for an original registration is not paid within 20 days after it becomes delinquent, a penalty equal to 20 percent of the fee shall be added and collected with the fee.

(b) A penalty of 20 percent of the license fee shall be added on any application for original or renewal of year-round or annual registration made later than midnight of the date of expiration or on or after the date penalties become due. This penalty shall be computed after the vehicle license fee has been combined with the registration and weight fees as provided in Sections 9250 and 9400 of the Vehicle Code.

(c) Notwithstanding subdivision (a), any penalty that became due prior to January 1, 1978, shall be computed at the rate of penalty which was then in effect.

(Amended Sec. 2, Ch. 601, Stats. 1998. Effective January 1, 1999.)

Exemptions

10781. The license fee imposed by this part does not apply to any vehicle owned by the United States, by any foreign government, by a consul or other official representative of any foreign government, by the state, by any political subdivision of the state, or by any city, city and county, county, district, public corporation, or by a public fire department organized as a nonprofit corporation and used exclusively for firefighting purposes or exclusively as an ambulance.

(Amended Ch. 1445, Stats. 1967. Effective November 8, 1967.)

10781.1. The license fee imposed by this part does not apply to any vehicle that is owned by a federally recognized Indian tribe, if the vehicle is used exclusively within the boundaries of lands under the jurisdiction of that Indian tribe, including the incidental use of that vehicle on highways within those boundaries.

(Added Sec. 1, Ch. 911, Stats. 1999. Effective January 1, 2000.)

10782. (a) The license fee imposed by this part does not apply to any vehicle operated by the state, or by any county, city and county, city, district, or political subdivision of the state, or the United States, as a lessee under a lease, lease-sale, or rental-purchase agreement which grants possession of the vehicle to the lessee for a period of 30 consecutive days or more.

(b) The license fee imposed by this part does not apply to any privately owned schoolbus, as defined in Section 545 of the Vehicle Code, which is either:

(1) Owned by a private nonprofit educational organization and operated in accordance with the rules and regulations of the Department of Education exclusively in transporting school pupils, or school pupils and employees, of such private nonprofit educational organization, or

(2) Operated in accordance with the rules and regulations of the Department of Education exclusively in transporting school pupils, or school pupils and employees, of any public school or private nonprofit educational organization pursuant to a contract between a public school district or nonprofit educational organization and the owner or operator of the schoolbus.

This subdivision shall not, however, be applicable to any schoolbus which is operated pursuant to any contract which requires the public school district or nonprofit educational organization to pay any amount representing the costs of registration and weight fees unless and until the contract is amended to require only the payment of an amount representing the fee required by this section.

(Amended Ch. 1204, Stats. 1974. Effective September 23, 1974.)

10783. (a) The license fee imposed by this part does not apply to a passenger vehicle, a motorcycle, or a commercial vehicle of less than 8,001 pounds unladen weight, unless the vehicle is used for transportation for hire, compensation, or profit, if the vehicle is owned by any disabled veteran, as defined in Section 295.7 of the Vehicle Code, any former American prisoner of war, or any veteran who is a Congressional Medal of Honor recipient.

(b) The exemption granted by subdivision (a) shall extend to not more than one vehicle owned by the veteran, or former American prisoner of war, and is applicable to the same vehicle as described in subdivision (b) of Section 9105 of the Vehicle Code.

(c) (1) The Department of Motor Vehicles may require any disabled veteran applying for an exemption under this section to submit a certificate signed by a physician or surgeon substantiating the disability.

(2) The Department of Motor Vehicles may require any person applying for an exemption under this section for either of the following reasons to do any of the following:

(A) By reason of the person's status as a former American prisoner of war, to show, by satisfactory proof, his or her former prisoner-of-war status.

(B) By reason of the person's status of receiving the Congressional Medal of Honor, to show, by satisfactory proof, that he or she is a Congressional Medal of Honor recipient.

(d) This section shall become operative on July 1, 1999.

(Added Sec. 2, Ch. 563, Stats. 1998. Effective January 1, 1999. Operative July 1, 1999.)

10784. (a) The license fee imposed by this part does not apply to any mobilehome as defined in Sections 18008 and 18211 of the Health and Safety Code which is sold and installed on a foundation system, pursuant to Section 18551 of the Health and Safety Code, for occupancy as a residence.

(b) Any mobilehome exempted from the provisions of this part shall be subject to local property taxation.

(Added Ch. 1160, Stats. 1979. Effective January 1, 1980.)

10785. (a) The license fee imposed by this part shall not apply to any new mobilehome as defined in Sections 18008 and 18211 of the Health and Safety Code, which is sold and installed for occupancy as a residence, in accordance with Section 18613 of the Health and Safety Code, on or after July 1, 1980.

(b) Any new mobilehome exempted from the provisions of this part shall be subject to local property taxation.

(Added Ch. 1180, Stats. 1979. Effective January 1, 1980.)

10786. The license fee imposed by this part does not apply to any vehicle owned by an educational institution of collegiate grade, not conducted for profit, having an enrollment of 5,000 students or more and having an acreage of 5,000 acres or more, if such vehicle is used for fire-fighting purposes within the limits of the acreage of such institution, and is operated principally on roads owned by such institution.

(Amended Ch. 982, Stats. 1951.)

10787. The license fee imposed by this part does not apply to any vehicle operated by the Civil Air Patrol, when the vehicle has been transferred to the Civil Air Patrol by the United States Government, or any agency thereof, if by federal regulation or directive the use of such vehicle is restricted to defined activities of the Civil Air Patrol, and if by federal regulation or directive the vehicle must be returned to the United States Government when no longer required or suited for use by the Civil Air Patrol.

(Added Ch. 1, Stats. 1959.)

10788. (a) With respect to mobilehomes or trailer coaches subject to the provisions of this part, which are owned by, and which constitute the principal place of residence of, a disabled veteran who is blind in both eyes, has lost the use of two or more limbs, or is totally disabled as a result of injury or disease incurred in military service or the unmarried surviving spouse of such a veteran:

(1) The first twenty thousand dollars ($20,000) of the market value of the mobilehome or trailer coach shall be exempt from the license fee imposed by this part, or

(2) In the case of a disabled veteran or the unmarried surviving spouse whose household income, as defined in Section 20504, does not exceed the amounts specified in Section 20585, the first thirty thousand dollars ($30,000) of the market value of the mobilehome or trailer coach, shall be exempt from the license fee imposed by this part.

(b) For purposes of this section, "veteran" is defined as specified in subdivision (o) of Section 3 of Article XIII of the Constitution.

(c) No veteran shall be eligible for this exemption unless he or she was a resident of California at the time of his or her entry into military or naval service, or unless he or she was a resident of the state on November 7, 1972, if he or she is blind or has lost the use of two or more limbs, or on January 1, 1975, if he or she was totally disabled.

(d) As used in this section "mobile home" and "trailer coach" which are owned by the veteran includes:

(1) Property owned by the veteran with the veteran's spouse as a joint tenancy, tenancy in common or as community property;

(2) Property owned by the veteran or the veteran's spouse as separate property;

(3) Property owned with one or more other persons to the extent of the interest owned by the veteran, the veteran's spouse, or both the veteran and the veteran's spouse;

(4) Property owned by the veteran's unmarried surviving spouse with one or more other persons to the extent of the interest owned by the veteran's unmarried surviving spouse.

(e) For purposes of this section, "blind in both eyes" means having a visual acuity of 5/200 or less; "losing the use of a limb" means that the limb has been amputated or its use has been lost by reason of ankylosis, progressive muscular dystrophies, or paralysis; and "totally disabled" means that the United States Veterans Administration or the military service from which such veteran was discharged has rated the disability at 100 percent or has rated the disability compensation at 100 percent by reason of being unable to secure or follow a substantially gainful occupation.

(Added Ch. 371, Stats. 1980. Effective July 9, 1980 as a tax levy.)

10789. The license fee imposed by this part does not apply to the following:

(a) Any vehicle purchased with federal funds under the authority of paragraph (2) of subsection (b) of Section 1612 of Title 49 of the United States Code or Chapter 35 (commencing with Section 3000) of Title 42 of the United States Code for the purpose of providing specialized transportation services to senior citizens and handicapped persons by public and private nonprofit operators of specialized transportation services, including a consolidated transportation service agency designated pursuant to Section 15975 of the Government Code.

(b) Any vehicle operated solely for the purpose of providing specialized transportation services to senior citizens and persons with disabilities, by a nonprofit, public benefit consolidated transportation service agency designated under Section 15975 of the Government Code. The exemption provided by this subdivision shall not apply to more than 600 vehicles at any given time.

(Amended Sec. 1, Ch. 667, Stats. 1997. Effective January 1, 1998.)

Collections and Refunds

10851. Except as otherwise provided, the vehicle license fee is due and payable to the department each year on or before the expiration date assigned by the director. The fee shall be paid to the department at the time provided in the Vehicle Code for the registration or renewal of registration of the vehicle.

(Repealed and added Ch. 1330, Stats. 1974. Effective July 1, 1977.)

10852. The department shall collect the license fee and shall give to each person paying the license fee a receipt which shall sufficiently designate and identify the vehicle upon which the fee is paid.

10853. Whenever any vehicle is operated upon any highway of this State without the license fee having first been paid as required by this part, the fee is delinquent.

10854.1. If a check in payment of a fee or penalty is not paid by the bank on which it is drawn on its first presentation, the person tendering the check remains liable for the payment of the fee, or fee and penalty, as if he had not tendered the check. The department in its discretion may redeposit a check in payment of fee or fee and penalty not more than once without assessing additional penalties.

(Amended Ch. 214, Stats. 1969. Effective November 10, 1969.)

10856. (a) Except as provided in Section 9553 of the Vehicle Code, upon receipt of the application for renewal of registration, the department shall collect the required fee for the current registration year. No penalty shall be imposed if the department receives the application prior to or on the date the vehicle is first operated, moved, or left standing upon any highway during its current registration year and the applicant has timely filed, pursuant to subdivision (a) of Section 4604 of the Vehicle Code, a certification that the vehicle will not be operated, moved, or left standing upon any highway during the current registration year without first making an application for registration of the vehicle, including full payment of fees.

(b) If an application for renewal of registration is accompanied by an application for transfer of title, that application may be made without incurring a penalty for delinquent payment of fees not later than 20 days after the date the vehicle is first operated, moved, or left standing on any highway if a certification pursuant to subdivision (a) of Section 4604 of the Vehicle Code was timely filed with the department.

(c) Upon receipt of an application for original registration, the department shall collect the required fee for the current registration year. No penalty shall be imposed if the department receives the application and fee within 20 days after the fee becomes due.

(Amended Sec. 1, Ch. 600, Stats. 1998. Effective January 1, 1999.)

10857. No penalty fee shall be assessed for the delinquent payment of a vehicle license fee, when subsequent to the date on which the fee became due, the vehicle is repossessed on behalf of any legal owner, if the license fee is paid within 60 days of taking possession.

(Amended Ch. 200, Stats. 1984. Effective January 1, 1985.)

10858. (a) When a transferee or purchaser of a vehicle applies for transfer of registration, as provided in Section 5902 of the Vehicle Code, and it is determined by the department that vehicle license fee penalties accrued prior to the purchase of the vehicle and that the transferee or purchaser was not cognizant of the nonpayment of the vehicle license fee for the current or prior registration years, the department may waive the vehicle license fee penalties upon payment of the vehicle license fees due.

(b) Other provisions of this code notwithstanding, the Director of Motor Vehicles may, at his discretion, investigate into the circumstances of any application for registration to ascertain if penalties had accrued through no fault or intent of the owner. Provided such circumstances prevail, the director may waive any penalties upon payment of the license fee then due.

(c) When a transferee or purchaser of a vehicle applies for transfer of registration of a vehicle, and it is determined by the department that license fees for the vehicle for any year are unpaid and due, that the fees became due prior to the transfer or purchase of the vehicle by the transferee or purchaser, and that the transferee or purchaser was not cognizant of the fact that the fees were unpaid and due, the department may waive the fees and any penalty thereon when both of the following conditions exist:

(1) The license plate assigned to the vehicle displays a validating device issued by the department, and the validating device contains the year number of the registration year for which the transferee or purchaser is requesting a waiver of fees and penalties.

(2) The transferee or purchaser has submitted to the department the registration card that indicates the vehicle is registered for the registration year indicated on the validating device displayed on the license plate assigned to the vehicle.

(d) Upon the transfer of a vehicle for which license fees and any penalties thereon are unpaid and due, such fees and penalties are, notwithstanding the provisions of Article 2 (commencing with Section 10876), the personal debt of the transferor of the vehicle who did not pay the fees and penalties when they became due or accrued. The fees and penalties may be collected by the department in an appropriate civil action if the department has waived the fees and penalties pursuant to subdivision (c).

(Amended Ch. 759, Stats. 1983. Effective January 1, 1984.)

Seizure and Sale

10876. Every license fee and any penalty added thereto, from the date on which the fee becomes due, shall constitute a lien upon the vehicle for which due and upon any other vehicle owned by the owner of that vehicle.

(Amended Ch. 759, Stats. 1983. Effective January 1, 1984.)

10877. The department shall collect the fee and any penalty by seizure and sale of the vehicle as provided in Article 6 (commencing with Section 9800) of Chapter 6 of Division 3 of the Vehicle Code, or by appropriate civil action.

(Amended Ch. 759, Stats. 1983. Effective January 1, 1984.)

10878. (a) Notwithstanding Sections 10877 and 10951, on and after July 1, 1993, the responsibility and authority for the collection of the following delinquent amounts, and any interest, penalties, or service fees added thereto, shall be transferred from the department to the Franchise Tax Board:

(1) Registration fees.

(2) Transfer fees.

(3) License fees.

(4) Use taxes.

(5) Penalties for offenses relating to the standing or parking of a vehicle for which a notice of parking violation has been served on the owner, and any administrative service fee added to the penalty.

(6) Any court-imposed fine or penalty assessment, and any administrative service fee added thereto, that is subject to collection by the department.

(b) Any reference in this part to the department in connection with the duty to collect these amounts shall be deemed a reference to the Franchise Tax Board.

(c) The amounts collected under subdivision (a) may be collected in any manner authorized under the law as though they were a tax imposed under Part 10 (commencing with Section 17001) that is final, including, but not limited to, issuance of an order and levy under Article 4 (commencing with Section 706.070) of Chapter 5 of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure in the manner provided for earnings withholding order for taxes. Part 10 (commencing with Section 17001), 10.2 (commencing with Section 18401), or 10.7 (commencing with Section 21001), or any other applicable law shall apply for this purpose in the same manner and with the same force and effect as if the language of Part 10, 10.2, or 10.7, or the other applicable law is incorporated in full into this authority to collect these amounts, except to the extent that the provision is either inconsistent with the collection of these amounts or is not relevant to the collection of these amounts.

(d) Even though the amounts authorized by this section are collected as though they are taxes, amounts so received by the Franchise Tax Board shall be deposited into an appropriate fund or account upon agreement between the Franchise Tax Board and the department. The amounts shall be distributed by the department from the appropriate fund or account in accordance with the laws providing for the deposits and distributions as though the moneys were received by the department.

(e) For any collection action under this section, the Franchise Tax Board may utilize the contract authorization, procedures, and mechanisms available either with respect to the collection of taxes, interest, additions to tax, and penalties pursuant to Section 18837 or 19376, or with respect to the collection of the delinquencies by the department immediately prior to the time this section takes effect.

(f) The Legislature finds that it is essential for fiscal purposes that the program authorized by this section be expeditiously implemented. Accordingly, Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code shall not apply to any standard, criteria, procedure, determination, rule, notice, or guideline established or issued by the Franchise Tax Board in implementing and administering the program required by this section.

(g) Any standard, criteria, procedure, determination, rule, notice, or guideline, that is not subject to the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code pursuant to subdivision (f), shall be approved by the Franchise Tax Board, itself.

(h) The Franchise Tax Board may enter into any agreements or contracts necessary to implement and administer the provisions of this section. The Franchise Tax Board in administering this section may delegate collection activities to the department. Any contracts may provide for payment of the contract on the basis of a percentage of the amount of revenue realized as a result of the contractor's services under that contract. However, the Franchise Tax Board, in administering this part, may not enter into contracts with private collection agencies as authorized under Section 19377.

10879. In the case of leased vehicles, for purposes of Section 10877, this section, and Article 6 (commencing with Section 9800) of Chapter 6 of Division 3 of the Vehicle Code, the following shall apply:

(a) (1) Except as provided in subdivision (b), in the event the lessor designates the address of the lessee under subdivision (a) of Section 4453.5 of the Vehicle Code and provides the Department of Motor Vehicles with the address of the lessor, at a time and in the form and manner required by the department, the lessee shall be solely liable for the following, and any interest, penalties, or service fees added thereto:

(A) Penalties resulting from the delinquent registration of the leased vehicle.

(B) Penalties for offenses relating to the standing or parking of a vehicle for which a notice of parking violation has been served on the owner.

(C) Any court-imposed fines or penalty assessments that are subject to collection by the department.

(2) Except as provided in paragraph (3), the lien described in Section 9800 of the Vehicle Code shall remain in full force and effect for all unpaid penalties, fines, and fees described in this subdivision, including related interest, if any.

(3) Upon a bona fide sale or transfer of the vehicle, the lien on the vehicle being sold or transferred shall be released if the lessor has paid the registration and license fees within 30 days after the lessor is issued notice and demand by the Franchise Tax Board in accordance with subdivision (b).

(4) Any amount that is owed by the lessee under paragraph (1) at the time the lien is released in accordance with paragraph (3) shall constitute a lessee liability enforceable under Section 9805 of the Vehicle Code and collectible in accordance with Section 10878 of this code.

(b) If, within 30 days after notice and demand is issued to the lessor by the Franchise Tax Board, the lessor fails to pay the registration and license fees required to register the vehicle, all of the following shall apply to the lessor:

(1) The lessor shall remain solely liable for those registration and license fees.

(2) The lessor shall be jointly and severally liable with the lessee for the amounts described in paragraph (1) of subdivision (a).

(3) The lessor shall not be subject to relief under Section 4760 or 9561 of the Vehicle Code or any other law.

Refunds

10901. Whenever the department or the Department of Housing and Community Development erroneously collects any license fee or portion of a fee not required to be paid under this part, or erroneously applies any offset provided under this part, the erroneously collected amount shall be refunded to the person paying it upon application therefor made within three years after the date of the payment. If the department or the Department of Housing and Community Development discovers an error, it may make a refund in the absence of an application therefor.

(Amended Sec. 4, Ch. 322, Stats. 1998. Effective August 20, 1998.)

10902. (a) In the event of a constructive total loss, in which the repair value exceeds the market value of the vehicle less the anticipated salvage value, or a nonrepairable vehicle, or an unrecovered total loss, due to a theft, of a vehicle, the in-lieu fee portion of the vehicle license fee that has been paid, less any offset provided in Section 10754, shall be refunded to the current registered owner (the owner of the salvage value of the vehicle), or credited against the vehicle license fee owed on the owner's replacement vehicle. The amount refunded or credited shall be based upon one-twelfth of the annual in-lieu fee, less any offset provided by Section 10754, for each full month that remains until the registration expires.

(b) No refund or credit may be made pursuant to this section unless the vehicle owner has signed a declaration under penalty of perjury that he or she has not been cited or convicted of violating Section 23152 or 23153 of the Vehicle Code (relating to driving under the influence of alcohol or drugs) or Section 23103 as specified in Section 23103.5 of that code (which involves a substitute for an original citation of driving under the influence) in connection with the owner's vehicle loss. If the owner has been cited under any of these code sections, the owner shall be entitled to the refund or credit upon presentation of either proof of dismissal of the citation or a finding of not guilty.

(c) The Department of Motor Vehicles shall charge to vehicle owners requesting a refund or credit pursuant to this section a service fee in the amount of fifteen dollars ($15) to cover the administrative costs of processing the request.

(d) In the case of a request for refund or credit with respect to a stolen vehicle, the vehicle owner may not be entitled to a refund or credit prior to 60 days from the date the theft of the vehicle is reported to the police. If a refund is received or a credit is applied to another vehicle and the stolen vehicle is subsequently recovered, the owner shall return the amount refunded or credited. If the owner receives a refund or credit, and the destroyed or stolen vehicle is scrapped and subsequently repaired by another person, the new owner shall pay the full vehicle license fee.

(e) The Department of Motor Vehicles shall adopt regulations for the administration of the refunds and credits provided by this section.

(Amended Sec. 2, Ch. 719, Stats. 2003. Effective January 1, 2004.)

Distribution of Proceeds

11001. (a) All money collected by the department for accepted applications under this part shall be reported monthly to the Controller and, at the same time, deposited in the State Treasury to the credit of the Motor Vehicle License Fee Account in the Transportation Tax Fund.

Any reference in any law or regulation to the Motor Vehicle License Fee Fund shall be deemed to refer to the Motor Vehicle License Fee Account in the Transportation Tax Fund.

(b) The amount of any penalties collected by the department, as provided in Sections 9553 and 9554 of the Vehicle Code and Sections 10770 and 10854 of this code, shall, for purposes of subdivision (a), be deemed to be a percentage of the total fees allocated under this section and under Section 42270 of the Vehicle Code equal to that percentage of the weight fee, registration fee, and vehicle license fee obtained when applying the total of these fees collected, excluding use tax, against the individual weight fees, registration fees, and vehicle license fees collected on each application. Penalties which cannot be allocated in accordance with this subdivision shall be allocated according to subdivision (c).

(c) The amount of any penalties collected by the department, as provided in Sections 9553 and 9554 of the Vehicle Code and Sections 10770 and 10854 of this code which cannot be allocated pursuant to subdivision (b), shall, for purposes of subdivision (a), be deemed to be a percentage of the total fees allocated under this section and under Section 42270 of the Vehicle Code equal to that percentage of the ratio based on the fees previously allocated under this section and under Section 42270 of the Vehicle Code in the fiscal year preceding the calendar year for which the penalties are to be allocated. That ratio shall be reevaluated periodically and shall be adjusted to reflect any change in the fee structure that may be provided in this code or in Division 3 (commencing with Section 4000) of the Vehicle Code.

(Amended Ch. 123, Stats. 1984. Effective January 1, 1985.)

11001.5. (a) (1) Notwithstanding Section 11001, and except as provided in paragraph (2) and in subdivisions (b) and (d), 24.33 percent, and on and after July 1, 2004, 74.9 percent, of the moneys collected by the department under this part shall be reported monthly to the Controller, and at the same time, deposited in the State Treasury to the credit of the Local Revenue Fund, as established pursuant to Section 17600 of the Welfare and Institutions Code. All other moneys collected by the department under this part shall continue to be deposited to the credit of the Motor Vehicle License Fee Account in the Transportation Tax Fund and first allocated to the County of Orange as provided in subdivision (a) of Section 11005 and as necessary for the service of indebtedness as pledged by Sections 25350.6 and 53585.1 of the Government Code and in accordance with written instructions provided by the Controller under Sections 25350.7, 25350.9, and 53585.1 of the Government Code, and the balance shall be allocated to each city and city and county as otherwise provided by law.

(2) For the period beginning on and after July 1, 2003, and ending on February 29, 2004, the Controller shall deposit an amount equal to 28.07 percent of the moneys collected by the department under this part in the State Treasury to the credit of the Local Revenue Fund. All other moneys collected by the department under this part shall continue to be deposited to the credit of the Motor Vehicle License Fee Account in the Transportation Tax Fund and allocated to each city, county, and city and county as otherwise provided by law.

(b) Notwithstanding Section 11001, net funds collected as a result of procedures developed for greater compliance with vehicle license fee laws in order to increase the amount of vehicle license fee collections shall be reported monthly to the Controller, and at the same time, deposited in the State Treasury to the credit of the Vehicle License Fee Collection Account of the Local Revenue Fund as established pursuant to Section 17600 of the Welfare and Institutions Code. All revenues in excess of fourteen million dollars ($14,000,000) in any fiscal year shall be allocated to cities and cities and counties as specified in subdivisions (b) and (c) of Section 11005.

(c) Notwithstanding Section 11001, 25.72 percent of the moneys collected by the department on or after August 1, 1991, and before August 1, 1992, under this part shall be reported monthly to the Controller, and at the same time, deposited in the State Treasury to the credit of the Local Revenue Fund, as established pursuant to Section 17600 of the Welfare and Institutions Code. All other moneys collected by the department under this part shall continue to be deposited to the credit of the Motor Vehicle License Fee Account in the Transportation Tax Fund and allocated to each city, county, and city and county as otherwise provided by law.

(d) Notwithstanding any other provision of law, both of the following apply:

(1) This section is operative for the period beginning on and after March 1, 2004.

(2) It is the intent of the Legislature that the total amount deposited by the Controller in the State Treasury to the credit of the Local Revenue Fund for the 2003–04 fiscal year be equal to the total amount that would have been deposited to the credit of the Local Revenue Fund if paragraph (1) of subdivision (a) was applied during that entire fiscal year. The department shall calculate and notify the Controller of the adjustment amounts that are required by this paragraph to be deposited in the State Treasury to the credit of the Local Revenue Fund. The amounts deposited in the State Treasury to the credit of the Local Revenue Fund pursuant to this paragraph shall be deemed to have been deposited during the 2003–04 fiscal year.

(e) This section does not amend nor is it intended to amend or impair Section 25350 and following of, Section 53584 and following of, the Government Code, or any other statute dealing with the interception of funds.

(Amended Sec. 12, Ch. 610, Stats. 2004. Effective September 20, 2004.)

11002. The money in the Motor Vehicle License Fee Fund is hereby appropriated as provided in this chapter.

11003. The amount appropriated by the Legislature for the use of the Department of Motor Vehicles and the Franchise Tax Board for the enforcement of this part shall be transferred from the Motor Vehicle License Fee Account in the Transportation Tax Fund to the Motor Vehicle Account in the State Transportation Fund. That amount shall be determined so that the appropriate costs for registration and motor vehicle license fee activities are apportioned between the recipients of revenues in proportion to the revenues that would have been received by those recipients if the total fee imposed under this part was 2 percent of the market value of a vehicle.

(Amended Sec. 38, Ch. 211, Stats. 2004. Effective August 5, 2004.)

11003.1. All license fees on trailer coaches levied and collected by the Department of Motor Vehicles pursuant to Section 10751 shall be deposited in the State Treasury to the credit of the General Fund.

(Amended Ch. 699, Stats. 1992. Effective September 15, 1992.)

11003.2. Upon receiving the report from the Department of Motor Vehicles the county auditor shall transmit it to the county assessor. The assessor shall indicate on the report, or otherwise, the city, school district or code area in which each trailer has situs and return the report to the auditor.

(Amended Ch. 1191, Stats. 1972. Effective March 7, 1973.)

11003.3. (a) Upon receiving the report from the Department of Motor Vehicles the Controller shall, on a monthly basis after deducting from the amount reported the proportionate amount transferred pursuant to Section 11003, transfer the remainder of the amount reported to the credit of a special account in the General Fund. The money in such special account is hereby appropriated to the Controller who shall disburse to the auditor of each county the net amount of money shown by the report to have been collected under this part on trailer coaches having situs within the county.

(b) Monthly allocations made in accordance with subdivision (a) shall be deducted from the amounts payable indicated on the semiannual reports required by Section 11003.1.

(c) The money disbursed to the auditor and distributed by him to the county or a city pursuant to Section 11003.4 may be used for county or city purposes, and may, but need not necessarily, be used for purposes of general interest and benefit to the state.

(Amended Ch. 354, Stats. 1978. Effective January 1, 1979.)

11004. On or before the first day of December of each fiscal year, on order of the Controller, there shall be transferred from the Motor Vehicle License Fee Fund to the General Fund and set apart sufficient money in the amount of the semiannual interest necessary to be paid during the following month of January on bonds of the State issued under:

(a) The "State Highways Act," approved by the Governor March 22, 1909, and by a majority of the electors at the general election held November 8, 1910.

(b) The "State Highways Act of 1915," approved by the Governor May 20, 1915, and by a majority of the electors at the general election held November 7, 1916.

(c) Section 2 of Article XVI of the Constitution as approved by a majority of the electors at a special election held July 1, 1919.

(d) Section 3 of Article XVI of the Constitution, as approved by a majority of the electors at the general election held November 2, 1920.

On or before the first day of June of each fiscal year, on order of the Controller, there shall be transferred from the Motor Vehicle License Fee Fund to the General Fund and set apart sufficient money in the amount of the semiannual interest and the annual redemption charges necessary to be paid during the following month of July on the bonds referred to in this section.

(Amended Ch. 237, Stats. 1949.)

11004.5. The Controller shall deduct from the allocations he would otherwise make pursuant to Section 11005, the amounts chargeable to each city, county, and city and county under Section 40516 of the Vehicle Code, and transfer that amount to the Motor Vehicle Fund in augmentation of the funds available for the support of the Department of California Highway Patrol.

The Controller shall make such deductions at the time of the first allocation which occurs after the filing with him of the charges certified by the Commissioner of the California Highway Patrol. If the amount of the deduction for any city, county, or city and county exceeds the amount of the allocation for such city, county, or city and county, the balance of the deduction in excess of the amount of the apportionment shall be carried over and applied to the next succeeding allocation or allocations until exhausted.

(Amended Ch. 3, Stats. 1959.)

11005. After payment of refunds therefrom and after making the deductions authorized by Section 11003 and reserving the amount determined necessary by the Pooled Money Investment Board to meet the transfers ordered or proposed to be ordered pursuant to Section 16310 of the Government Code, commencing with the 2004–05 fiscal year, the balance of all motor vehicle license fees and any other money appropriated by law for expenditure pursuant to this section and deposited to the credit of the Motor Vehicle License Fee Account in the Transportation Tax Fund and remaining unexpended therein at the close of business on the last day of the calendar month, shall be allocated by the Controller by the 10th day of the following month in accordance with the following:

(a) First, to the County of Orange. For the 2004–05 fiscal year, that county shall be allocated fifty-four million dollars ($54,000,000) in monthly installments. For the 2005–06 fiscal year and each fiscal year thereafter, that county shall receive, in monthly installments, an amount equal to the amount allocated under this section for the prior fiscal year, adjusted for the percentage change in the amount of revenues credited to the Motor Vehicle License Fee Account in the Transportation Tax Fund from the revenues credited to that account in the prior fiscal year. Moneys allocated to the County of Orange under this subdivision shall be used first for the service of indebtedness as provided in paragraph (1) of subdivision (a) of

Section 11001.5. Any amounts in excess of the amount required for this service of indebtedness may be used by that county for any lawful purpose.

(b) Second, to each city, the population of which is determined under Section 11005.3 on August 5, 2004, in an amount equal to the additional amount of vehicle license fee revenue, including offset transfers, that would be allocated to that city under Sections 11000 and 11005, as those sections read on January 1, 2004, as a result of that city's population being determined under Section 11005.3.

(c) Third, to the cities and cities and counties of this state in the proportion that the population of each city or city and county bears to the total population of all cities and cities and counties in this state, as determined by the population research unit of the Department of Finance. For the purpose of this subdivision, the population of each city or city and county is that determined by the last federal decennial or special census, or a subsequent census validated by the demographic research unit or subsequent estimate prepared pursuant to Section 2107.2 of the Streets and Highways Code.

(Amended Sec. 13, Ch. 610, Stats. 2004. Effective September 20, 2004.)

11005.1. (a) Any city or city and county may expend any money received by it pursuant to Section 11005 for:

(1) Planning, acquiring, constructing, operating, or maintaining a rapid transit system itself or jointly with one or more other cities, counties, cities and counties, or public rapid transit districts, agencies, or authorities; or

(2) Making contributions to any public rapid transit district, agency, or authority exercising jurisdiction within the city or city and county for use in planning, acquiring, constructing, operating, or maintaining a rapid transit system.

(b) A county may expend such money in making contributions to any city or public rapid transit district, agency, or authority within the county for use in planning, acquiring, constructing, operating, or maintaining a rapid transit system.

(Added Ch. 1852, Stats. 1963.)

11005.5. The payments provided under Section 11005 shall not be made to any incorporated city which has not held an election of municipal officers within a period of 10 years preceding the date of such payment. Payments heretofore accumulated on behalf of any such city shall be apportioned to all other cities in the manner provided by Section 11005.

(Added Ch. 854, Stats. 1953.)

11005.6. Any city, county, or city and county may apply to the population research unit of the Department of Finance to estimate its population. The department may make the estimate if in the opinion of the department there is available adequate information upon which to base the estimate. Not less than 25 days nor more than 30 days after the completion of the estimate, the Department of Finance shall file a certified copy thereof with the Controller if the estimate is greater than the current certified population. Such a certification may be made once each fiscal year.

All payments under Section 11005 for any allocation subsequent to the filing of the estimate shall be based upon the population so estimated until a subsequent certification is made by the Department of Finance or a subsequent federal decennial census is made.

Population changes based on a federal or state special census or estimate validated by the Department of Finance shall be accepted by the Controller only if certified to him or her at the request of the Department of Finance. The request shall be made only if the census or estimate is greater than the current certified population and shall become effective on the first day of the month following receipt of the certification.

The Department of Finance may assess a reasonable charge, not to exceed the actual cost thereof, for the preparation of population estimates pursuant to this section, which is a proper charge against the city, county, or city and county applying therefor. The amount received shall be deposited in the State Treasury as a reimbursement to be credited to the appropriation from which the expenditure is made.

As of May 1, 1988, any population estimate prepared by the Department of Finance pursuant to Section 2227 may be used for all purposes of this section unless a written request not to certify is received by the department from the city, city and county, or county within 25 days of completion of the estimate.

(Amended Ch. 154, Stats. 1988. Effective January 1, 1989.)

11006. (a) Commencing on December 31, 2001, the Controller, in consultation with the Department of Motor Vehicles and the Department of Finance, shall recalculate the distribution of the amount of motor vehicle license fees paid by commercial vehicles that are subject to Section 9400.1 of the Vehicle Code and transfer those sums from the General Fund as follows in the following order:

(1) An amount sufficient to cover all allocations and interception of funds associated with all pledges, liens, encumbrances and priorities as set forth in Section 25350.6 of the Government Code, which shall be transferred so as to pay that allocation.

(2) An amount sufficient to continue allocations to the State Treasury to the credit of the Vehicle License Fee Account of the Local Revenue Fund, as established pursuant to Section 17600 of the Welfare and Institutions Code, which would be in the same amount had the amendments made by the act that added this section to Section 10752 of the Revenue and Taxation Code not been enacted, which shall be deposited in the State Treasury to the credit of the Vehicle License Fee Account of the Local Revenue Fund, as established pursuant to Section 17600 of the Welfare and Institutions Code.

(3) An amount sufficient to continue allocations to the State Treasury to the credit of the Vehicle License Fee Growth Account of the Local Revenue Fund, as established pursuant to Section 17600 of the Welfare and Institutions Code, which would be in the same amount had the amendments made by the act that added this section to Section 10752 of the Revenue and Taxation Code not been enacted, which shall be deposited in the State Treasury to the credit of the Vehicle License Fee Growth Account of the Local Revenue Fund, as established pursuant to Section 17600 of the Welfare and Institutions Code.

(4) An amount sufficient to cover all allocations and interception of funds associated with all pledges, liens, encumbrances and priorities, other than those referred to in paragraph (1), as set forth in Section 25350 and following of, Section 53584 and following of, 5450 and following of, the Government Code, which shall be transferred so as to pay those allocations.

(b) The balance of any funds not otherwise allocated pursuant to subdivision (a) shall continue to be deposited to the credit of the Motor Vehicle License Fee Account in the Transportation Tax Fund and allocated to each city, county, and city and county as otherwise provided by law.

(c) In enacting paragraphs (1) and (4) of subdivision (a), the Legislature declares that paragraphs (1) and (4) of subdivision (a), shall not be construed to obligate the State of California to make any payment to a city, city and county, or county from the Motor Vehicle License Fee Account in the Transportation Tax Fund in any amount or pursuant to any particular allocation formula, or to make any other payment to a city, city and county, or county, including, but not limited to, any payment in satisfaction of any debt or liability incurred or so guaranteed if the State of California had not so bound itself prior to the enactment of this section.

(Amended Sec. 21.3, Ch. 471, Stats. 2003. Effective January 1, 2004.)

Local Vehicle License Fees

11101. This part is applicable only in a county which has adopted a general plan providing for a network of county expressways and has financed the first phase of the construction of such highways from a county highway bond issue totaling at least seventy million dollars ($70,000,000). This part is necessary to provide needed revenue to continue further construction of such an expressway system without increasing the property tax.

11102. As used in this part, "department" means the Department of Motor Vehicles.

11103. Notwithstanding the provisions of Section 10758 of this code, the board of supervisors of a county may, by ordinance, adopt a vehicle license fee pursuant to this part. After a local vehicle license fee has been levied pursuant to this part, it may not be collected more than twice unless the board of supervisors shall have submitted to the voters at a general or special election and at least a majority of those voting have voted affirmatively on the following question:

"Shall the local vehicle license fee be continued as the means to finance the county expressway program?"

11104. No vehicle license fee ordinance adopted pursuant to this part shall be effective for any calendar year prior to 1968, nor unless it is adopted and a certified copy thereof delivered to the Department

of Motor Vehicles at least four months prior to the first day of January for the calendar year for which it is to be operative.

11105. A vehicle license fee ordinance adopted pursuant to this part may be repealed by action of the board of supervisors of the county. A repeal of any vehicle license fee ordinance adopted pursuant to this part shall not be effective for any calendar year unless the board of supervisors takes action to repeal the ordinance at least four months prior to the first day of January the year for which it is to be repealed.

11106. The vehicle license fee ordinance adopted under this part shall be imposed for the privilege of operating upon the public highways in the county any vehicle of a type which is subject to registration under the Vehicle Code unless specifically exempt under the terms of the ordinance, and shall include provisions in substance as follows:

(a) A provision fixing the annual amount of the license fee which shall be an amount not exceeding ten dollars ($10) for every vehicle of a type subject to registration under the Vehicle Code. The ordinance may provide a different fee for any class of vehicles provided no fee shall exceed ten dollars ($10) per vehicle.

(b) Provisions identical to those contained in Part 5 (commencing with Section 10701) of Division 2 of this code, insofar as they relate to vehicle license fees and are applicable, except that the name of the county as the taxing agency shall be substituted for that of the state, and that the term "vehicle of a type subject to registration under the Vehicle Code" does not include (1) any vehicle in the inventory of vehicles held for sale by a manufacturer, distributor or dealer in the course of his business until such time as the vehicle is sold, (2) any trailer coach, or (3) any class of vehicles specifically made exempt from the vehicle license fees authorized by this part by the terms of the ordinance imposing such fees.

(c) A provision that all amendments, subsequent to the effective date of the county vehicle, license fee ordinance, to Part 5 (commencing with Section 10701) of Division 2 of this code relating to vehicle license fees and not inconsistent with this part, shall automatically become a part of the county vehicle license fee ordinance.

(d) A provision that the county contract with the Department of Motor Vehicles to perform all functions incident to the administration or operation of the vehicle license fee ordinance of the county.

(e) A provision that the vehicle license fee ordinance shall become operative on the first day of January of the year next succeeding the year in which the ordinance is adopted subject to the provisions of Section 11104.

(f) A provision that the total revenue derived from any vehicle license fee ordinance, less any costs charged by the Department of Motor Vehicles for its services, shall be distributed to the county for the construction (as defined in Section 29 of the Streets and Highways Code) of a county expressway system or the select system of a county.

11107. All vehicle license fees shall be collected by the Department of Motor Vehicles pursuant to a contract with the county and shall be transmitted to the county by the department periodically as promptly as feasible, and the department shall charge the county for the department's services specified in this section and Section 11106 such amount as will reimburse the department for the the actual additional cost to it in rendering the services. Refunds to licenses pursuant to Part 5 of Division 2 of this code as incorporated in the vehicle license fee ordinance shall be made and administered as provided in such contract.

(Added Ch. 1221, Stats. 1967. Effective August 17, 1967.)

11108. A person shall, for the purposes provided in this part, be presumed to be operating a vehicle on the public highways only in the county of residence as it is reflected in the registration records of the Department of Motor Vehicles and he shall be subject to a vehicle license fee under this part only in that county. The department is authorized to establish administrative procedures for the collection of vehicle license fees. In determining the place of residence of a person the department shall be entitled to rely upon the address reflected in its records unless any such person or persons or county or district shall establish to the satisfaction of the department that the place of residence is elsewhere.

(Added Ch. 1221, Stats. 1967. Effective August 17, 1967.)

Local Vehicle License Fee Surcharge

11151. (a) For purposes of this part, "department" means the Department of Motor Vehicles.

(b) For purposes of this part, "county" means the City and County of San Francisco.

11152. The county may impose a local vehicle license fee surcharge if both of the following occur:

(a) The board of supervisors finds both of the following:

(1) That there is traffic congestion within the county that can be alleviated by the operation of public transit and that the cost of funding public transit exceeds the revenues to be collected from a vehicle license fee surcharge.

(2) That the imposition of the vehicle license fee surcharge will reduce the need for any public transit fare increases during the period that the vehicle license fee surcharge is in effect.

(b) The ordinance or resolution proposing the surcharge is adopted by two-thirds of the voters of the county voting on the issue.

11152.5. If public transit fares are increased at any time while the vehicle license fee surcharge authorized by this part is in effect, the surcharge may not continue to be imposed.

This part shall become inoperative on the date those fares are increased and shall be repealed on January 1 next following that date. The board of supervisors shall notify the department of any increase in public transit fares occurring while the surcharge is in effect.

11153. A vehicle license fee surcharge ordinance or resolution adopted pursuant to this part shall be operative on January 1 of the year following adoption of the ordinance or resolution. A local vehicle license fee surcharge shall apply to any original registration occurring on or after that January 1, and to any renewal of registration with an expiration date on or after that January 1.

11154. The local vehicle license fee surcharge shall be imposed for the privilege of operating upon the public highways in the county any vehicle of a type that is subject to registration under the Vehicle Code, except those vehicles expressly exempted from payment of vehicle registration fees and commercial vehicles weighing more than 4,000 pounds, unladen, and shall include provisions in substance as follows:

(a) A provision that the annual amount of the local vehicle license fee surcharge shall be a sum equal to not more than 15 percent of the vehicle license fee imposed pursuant to Part 5 (commencing with Section 10701).

(b) A provision that the county contract prior to the effective date of the local vehicle license fee surcharge ordinance or resolution with the department to perform all functions incident to the administration or operation of the local vehicle license fee surcharge ordinance or resolution of the county.

11155. All local vehicle license fee surcharge revenues, less refunds, collected by the department pursuant to a contract with a county, after deduction of the administrative costs incurred by the department in carrying out this part, shall be paid to that county.

11156. A person shall, for the purposes provided for in Section 11154, be presumed to be operating a vehicle on the public highways only in the county in which he or she resides, or, in the case of other than a natural person, only in the county in which the vehicle is principally garaged, and he or she shall be subject to a local vehicle license fee surcharge only in that county.

(Added Ch. 966, Stats. 1993. Effective January 1, 1994.)

17139.5. For taxpayers who were not allowed to deduct the vehicle smog impact fee imposed by Section 6262 when paid or incurred, any interest paid by this state in conjunction with the refund of the smog impact fee shall be excluded from gross income.

(Added Sec. 2, Ch. 31, Stats. 2000. Effective June 8, 2000.)

36020. Notwithstanding the provisions of Section 10758 and Part 5.5 of Division 2 of this code, the board of supervisors of a county may, one time only, by ordinance, adopt a vehicle license fee pursuant to this article which shall be operative for one calendar year only.

(Added Ch. 1221, Stats. 1967. Effective August 17, 1967.)

Retail Transactions and Use Tax

37021. If authorized by the voters as provided in this part, a transactions and use tax ordinance may be adopted in accordance with the provisions of Part 1.6 (commencing with Section 7251) of this division. However, the tax rate imposed under such an ordinance shall be either one-fourth or one-half of 1 percent, whichever is authorized by the voters.

(Repealed and added Ch. 825, Stats. 1971. Effective March 4, 1972.)

37022. Prior to the operative date of any ordinance imposing a transactions and use tax pursuant to this article, the rapid transit district shall contract with the State Board of Equalization to perform all functions incident to the administration and operation of the ordinance. If the rapid transit district shall not have contracted with the State Board of Equalization prior to the operative date of its ordinance, it shall nevertheless so contract and in such case the operative date shall be the first day of the first calendar quarter following the execution of the contract.

(Repealed and added Ch. 825, Stats. 1971. Effective March 4, 1972.)

37023. For the purposes of a transaction tax imposed by an ordinance adopted pursuant to this article, all retail transactions are consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. The gross receipts from such transactions shall include delivery charges, when such charges are subject to the state sales and use tax, regardless of the place to which delivery is made. In the event a retailer has no permanent place of business in the state or has more than one place of business, the place or places at which the retail transactions are consummated for the purpose of a transactions tax imposed by an ordinance adopted pursuant to this article shall be determined under rules and regulations to be prescribed and adopted by the State Board of Equalization.

(Added Ch. 940, Stats. 1968. Effective November 13, 1968.)

37025. The words "transaction" or "transactions" as used in this article have the same meaning respectively as the words "sale" or "sales," and the word "transactor" as used in this article has the same meaning as "seller," as "sale" or "sales" and "seller" are used in Part 1 (commencing with Section 6001) of this division.

(Added Ch. 940, Stats. 1968. Effective November 13, 1968.)

37027. All transactions and use taxes collected by the State Board of Equalization pursuant to contract with the rapid transit district shall be transmitted by the state board to the rapid transit district periodically as promptly as feasible, and the state board shall charge the rapid transit district for services rendered in such amount as will reimburse the state board for the cost to it in rendering such services.

(Added Ch. 940, Stats. 1968. Effective November 13, 1968.)

STREETS AND HIGHWAYS CODE

127. The California Highway Patrol shall cooperate with the department in the enforcement of the closing, or restriction of use, of any State highway.

Divided Highways: Traffic Regulation

145. The department is authorized to lay out and construct local service roads on and along any state highway where there is particular danger to the traveling public of collision due to vehicles entering the highway from the side thereof and to divide and separate any service road from the main thoroughfare by raised curbs or dividing sections or by other appropriate devices.

It is unlawful for any person to drive any vehicle into the main thoroughfare from any service road except through an opening in the dividing curb or dividing section or dividing line.

Any person who violates any provision of this section is guilty of a misdemeanor.

(Amended Ch. 777, Stats. 1980. Effective January 1, 1981.)

Vending From State Highway

731. Any vehicle or structure parked or placed wholly or partly within any state highway, for the purpose of selling the same or of selling therefrom or therein any article, service or thing, is a public nuisance and the department may immediately remove that vehicle or structure from within any highway.

Any person parking any vehicle or placing any structure wholly or partly within any highway for the purpose of selling that vehicle or structure, or of selling therefrom or therein, any article or thing, and any person selling, displaying for sale, or offering for sale any article or thing either in or from that vehicle or structure so parked or placed, and any person storing, servicing, repairing or otherwise working upon any vehicle, other than upon a vehicle which is temporarily disabled, is guilty of a misdemeanor.

The California Highway Patrol and all peace officers may enforce the provisions of this chapter and shall cooperate with the department to that end. Whenever any member of the California Highway Patrol or any peace officer removes a vehicle from a highway under the provisions of this section, then all of the provisions of Article 3 (commencing with Section 22850), Chapter 10, Division 11 of the Vehicle Code with reference to the removal of a vehicle from a highway shall be applicable.

This section does not prohibit a seller from taking orders or delivering any commodity from a vehicle on that part of any state highway immediately adjacent to the premises of the purchaser; prohibit an owner or operator of a vehicle, or a mechanic, from servicing, repairing or otherwise working upon any vehicle which is temporarily disabled in a manner and to an extent that it is impossible to avoid stopping that vehicle within the highway; or prohibit coin-operated public telephones and related telephone structures in park and ride lots, vista points, and truck inspection facilities within state highway rights-of-way for use by the general public.

(Amended Ch. 775, Stats. 1991. Effective January 1, 1992.)

Chapter 6. Golf Cart Transportation Plan

(Amended Sec. 2, and repealed Sec. 10, Ch. 334, Stats. 1995. Effective January 1, 1996.
Repeal operative on the date set forth in Section 1967.)

1961. A city or county that adopts a golf cart transportation plan shall adopt all of the following as part of the plan:

(a) Minimum design criteria for golf carts, that may include, but not be limited to, headlights, turn signals, safety devices, mirrors, brake lights, windshields, and other devices. The criteria may include requirements for seatbelts and a covered passenger compartment.

(b) A permit process for golf carts that requires permitted golf carts to meet minimum design criteria adopted pursuant to subdivision (a). The permit process may include, but not be limited to, permit posting, permit renewal, operator education, and other related matters.

(c) Minimum safety criteria for golf cart operators, including, but not limited to, requirements relating to golf cart maintenance and golf cart safety. Operators shall be required to possess a valid California driver's license and to comply with the financial responsibility requirements established pursuant to Chapter 1 (commencing with Section 16000) of Division 7.

(d) (1) Restrictions limiting the operation of golf carts to separated golf cart lanes on those roadways identified in the transportation plan, and allowing only those golf carts that have been retrofitted with the safety equipment specified in the plan to be operated on separated golf cart lanes of approved roadways in the plan area.

(2) Any person operating a golf cart in the plan area in violation of this subdivision is guilty of an infraction punishable by a fine not exceeding one hundred dollars ($100).

(Amended Sec. 1.5, Ch. 536, Stats. 1997. Effective January 1, 1998.)

Chapter 15. FREEWAY SERVICE PATROLS

(Added Ch. 1109, Stats. 1992. Effective September 29, 1992.)
(Repealed Ch. 1109, Stats. 1992. Effective September 29, 1992. Operative January 1, 1997.)

2560. This chapter shall be known and may be cited as the Freeway Service Patrol Act.

(Added Ch. 1109, Stats. 1992. Effective September 29, 1992.)

2561. As used in this chapter, each of the following terms has the following meaning:

(a) "Emergency roadside assistance" has the same meaning as defined in Section 2436 of the Vehicle Code.

(b) "Employer" has the same meaning as defined in Section 2430.1 of the Vehicle Code.

(c) "Freeway service patrol" means a program managed by the Department of the California Highway Patrol, the department, and a regional or local entity which provides emergency roadside assistance on a freeway in an urban area.

(d) "Regional or local entity" has the same meaning as defined in Section 2430.1 of the Vehicle Code.

(e) "Tow truck driver" has the same meaning as defined in Section 2430.1 of the Vehicle Code.

(Added Ch. 1109, Stats. 1992. Effective September 29, 1992.)

2561.3. The freeway service patrol in any particular area shall be operated pursuant to an agreement between the Department of the California Highway Patrol, the department, and the appropriate regional or local entity.

(Amended Sec. 2, Ch. 578, Stats. 2002. Effective September 14, 2002.)

2562.5. Each tow truck participating in a freeway service patrol shall bear a logo comprised of, at a minimum, a circle, a triangle, and a tow truck silhouette, with the words "Freeway Service Patrol," which identifies the Department of the California Highway Patrol and the department, and, at the option of the entity, the participating regional or local entity. Participating regional or local entities may place an approved logo on participating tow trucks.

(Amended Sec. 7, Ch. 513, Stats. 2000. Effective January 1, 2001.)

2563. Tow truck drivers and employers participating in a freeway service patrol pursuant to this chapter are subject to the standards and qualifications established under Article 3.3 (commencing with Section 2430) of Chapter 2 of Division 2 of the Vehicle Code.

(Amended Sec. 8, Ch. 513, Stats. 2000. Effective January 1, 2001.)

WELFARE AND INSTITUTIONS CODE

256. Subject to the orders of the juvenile court, a juvenile hearing officer may hear and dispose of any case in which a minor under the age of 18 years as of the date of the alleged offense is charged with (1) any violation of the Vehicle Code, except Section 23136, 23140, 23152, or 23153 of that code, not declared to be a felony, (2) a violation of subdivision (m) of Section 602 of the Penal Code, (3) a violation of the Fish and Game Code not declared to be a felony, (4) a violation of any of the equipment provisions of the Harbors and Navigation Code or the vessel registration provisions of the Vehicle Code, (5) a violation of any provision of state or local law relating to traffic offenses, loitering or curfew, or evasion of fares on a public transportation system, as defined by Section 99211 of the Public Utilities Code, (6) a violation of Section 27176 of the Streets and Highways Code, (7) a violation of Section 640 or 640a of the Penal Code, (8) a violation of the rules and regulations established pursuant to Sections 5003 and 5008 of the Public Resources Code, (9) a violation of Section 33211.6 of the Public Resources Code, (10) a violation of Section 25658, 25658.5, 25661, or 25662 of the Business and Professions Code, (11) a violation of subdivision (f) of Section 647 of the Penal Code, (12) a misdemeanor violation of Section 594 of the Penal Code, involving defacing property with paint or any other liquid, (13) a violation of subdivision (b), (d), or (e) of Section 594.1 of the Penal Code, (14) a violation of subdivision (b) of Section 11357 of the Health and Safety Code, (15) any infraction, or (16) any misdemeanor for which the minor is cited to appear by a probation officer pursuant to subdivision (f) of Section 660.5.

(Amended Sec. 1, Ch. 228, Stats. 2000. Effective January 1, 2001.)

257. (a) (1) Except in the case of infraction violations, with the consent of the minor, a hearing before a juvenile hearing officer, or a hearing before a referee or a judge of the juvenile court, where the minor is charged with an offense as specified in this section, may be conducted upon an exact legible copy of a written notice given pursuant to Article 2 (commencing with Section 40500) of Chapter 2 of Division 17 or Section 41103 of the Vehicle Code, or an exact legible copy of a written notice given pursuant to Chapter 5C (commencing with Section 853.5) of Title 3 of Part 2 of the Penal Code when the offense charged is a violation listed in Section 256, or an exact legible copy of a citation as set forth in subdivision (e) of Section 660.5, in lieu of a petition as provided in Article 16 (commencing with Section 650).

(2) Notwithstanding any other provision of law, in the case of infraction violations, consent of the minor is not required prior to conducting a hearing upon written notice to appear.

(b) Prior to the hearing, the judge, referee, or juvenile hearing officer may request the probation officer to commence a proceeding, as provided in Article 16 (commencing with Section 650), in lieu of a hearing in Informal Juvenile and Traffic Court.

(Amended Sec. 4, Ch. 830, Stats. 2001. Effective January 1, 2002.)

258. (a) Upon a hearing conducted in accordance with Section 257, and upon either an admission by the minor of the commission of a violation charged, or a finding that the minor did in fact commit the violation, the judge, referee, or juvenile hearing officer may do any of the following:

(1) Reprimand the minor and take no further action.

(2) Direct that the probation officer undertake a program of supervision of the minor for a period not to exceed six months, in addition to or in place of the following orders.

(3) Order that the minor pay a fine up to the amount that an adult would pay for the same violation, unless the violation is otherwise specified within this section, in which case the fine shall not exceed two hundred fifty dollars ($250). This fine may be levied in addition to or in place of the following orders and the court may waive any or all of this fine, if the minor is unable to pay. In determining the minor's ability to pay, the court may not consider the ability of the minor's family to pay.

(4) Subject to the minor's right to a restitution hearing, order that the minor pay restitution to the victim, in lieu of all or a portion of the fine specified in paragraph (3). The total dollar amount of the fine, restitution, and any program fees ordered pursuant to paragraph (9) may not exceed the maximum amount which may be ordered pursuant to paragraph (3). This paragraph may not be construed to limit the right to recover damages, less any amount actually paid in restitution, in a civil action.

(5) Order that the driving privileges of the minor be suspended or restricted as provided in the Vehicle Code or, notwithstanding Section 13203 of the Vehicle Code or any other provision of law, when the Vehicle Code does not provide for the suspension or restriction of driving privileges, that, in addition to any other order, the driving privileges of the minor be suspended or restricted for a period of not to exceed 30 days.

(6) In the case of a traffic related offense, order the minor to attend a licensed traffic school, or other court approved program of traffic school instruction pursuant to Chapter 1.5 (commencing with Section 11200) of Division 5 of the Vehicle Code, to be completed by the juvenile within 60 days of the court order.

(7) Order that the minor produce satisfactory evidence that the vehicle or its equipment has been made to conform with the requirements of the Vehicle Code pursuant to Section 40150 of the Vehicle Code if the violation involved an equipment violation.

(8) Order that the minor perform community service work in a public entity or any private nonprofit entity, for not more than 50 hours over a period of 60 days, during times other than his or her hours of school attendance or employment. Work performed pursuant to this paragraph may not exceed 30 hours during any 30-day period. The timeframes established by this paragraph may not be modified except in unusual cases where the interests of justice would best be served. When the order to work is made by a referee or a juvenile hearing officer, it shall be approved by a judge of the juvenile court.

For the purposes of this paragraph, a judge, referee, or juvenile hearing officer may not, without the consent of the minor, order the minor to perform work with a private nonprofit entity that is affiliated with any religion.

(9) In the case of a misdemeanor, order that the minor participate in and complete a counseling or educational program, or, if the offense involved a violation of a controlled substance law, a drug treatment program, if those programs are available. Any fees for participation shall be subject to the right to a hearing as the minor's ability to pay and may not, together with any fine or restitution order, exceed the maximum amount that may be ordered pursuant to paragraph (3).

(10) Require that the minor attend a school program without unexcused absence.

(11) If the offense is a misdemeanor committed between 10 p.m. and 6 a.m., require that the minor be at his or her legal residence at hours to be specified by the juvenile hearing officer between the hours of 10 p.m. and 6 a.m., except for a medical or other emergency, unless the minor is accompanied by his or her parent, guardian, or other person in charge of the minor. The maximum length of an order made pursuant to this paragraph shall be six months from the effective date of the order.

(12) Make any or all of the following orders with respect to a violation of the Fish and Game Code which is not charged as a felony:

(A) That the fishing or hunting license involved be suspended or restricted.

(B) That the minor work in a park or conservation area for a total of not to exceed 20 hours over a period not to exceed 30 days, during times other than his or her hours of school attendance or employment.

(C) That the minor forfeit, pursuant to Section 12157 of the Fish and Game Code, any device or apparatus designed to be, and capable of being, used to take birds, mammals, fish, reptiles, or amphibia and which was used in committing the violation charged. The judge, referee, or juvenile hearing officer shall, if the minor committed an offense which is punishable under Section 12008 of the Fish and Game Code, order the device or apparatus forfeited pursuant to Section 12157 of the Fish and Game Code.

(13) If the violation charged is of an ordinance of a city, county, or local agency relating to loitering, curfew, or fare evasion on a public transportation system, as defined by Section 99211 of the Public Utilities Code, or is a violation of Section 640 or 640a of the Penal Code, make the order that the minor shall perform community service for a total time not to exceed 20 hours over a period not to exceed 30 days, during times other than his or her hours of school attendance or employment.

(b) The judge, referee, or juvenile hearing officer shall retain jurisdiction of the case until all orders made under this section have been fully complied with.

(Amended Sec. 89, Ch. 149, Stats. 2003. Effective January 1, 2004.)

260. A juvenile hearing officer shall promptly furnish a written report of his or her findings and orders to the clerk of the juvenile court. The clerk of the juvenile court shall promptly transmit an abstract of those findings and orders to the Department of Motor Vehicles.

(Amended Sec. 6, Ch. 679, Stats. 1997. Effective January 1, 1998.)

261. Subject to the provisions of Section 262, all orders of a juvenile hearing officer shall be immediately effective.

(Amended Sec. 7, Ch. 679, Stats. 1997. Effective January 1, 1998.)

654.1. (a) Notwithstanding Section 654 or any other provision of law, in any case in which a minor has been charged with a violation of Section 23140 or 23152 of the Vehicle Code, the probation officer may, in lieu of requesting that a petition be filed by the prosecuting attorney to declare the minor a ward of the court under Section 602, proceed in accordance with Section 654 and delineate a program of supervision for the minor. However, the probation officer shall cause the citation for a violation of Section 23140 or 23152 of the Vehicle Code to be heard and disposed of by the judge, referee, or juvenile hearing officer pursuant to Sections 257 and 258 as a condition of any program of supervision.

(b) This section may not be construed to prevent the probation officer from requesting the prosecuting attorney to file a petition to declare the minor a ward of the court under Section 602 for a violation of Section 23140 or 23152 of the Vehicle Code. However, if in the judgment of the probation officer, the interest of the minor and the community can be protected by adjudication of a violation of Section 23140 or 23152 of the Vehicle Code in accordance with subdivision (a), the probation officer shall proceed under subdivision (a).

(Amended Sec. 90, Ch. 149, Stats. 2003. Effective January 1, 2004.)

Sealing of Records

781. (a) When a petition has been filed with a juvenile court to commence proceedings to adjudge a person a ward of the court, a person is cited to appear before a probation officer or is taken before a probation officer pursuant to Section 626, or a minor is taken before any officer of a law enforcement agency, the person or the county probation officer may petition the court for sealing of the records. The petition to seal the records may be filed five years or more after the jurisdiction of the juvenile court has terminated over the person or, if no juvenile court petition was filed, five years or more after the person was cited to appear before a probation officer or was taken before a probation officer pursuant to Section 626 or was taken before any officer of a law enforcement agency, or at any time after the person has reached the age of 18 years. The petition to seal the records shall include a statement disclosing whether there is any pending civil litigation relating to the criminal act that caused the records to be created. As used in this section, "records" include records of arrest, records relating to the person's case, and records in the custody of the juvenile court, probation officer and any other agencies, including law enforcement agencies, and public officials that the petitioner alleges, in his or her petition, to have custody of the records. The court shall notify the district attorney of the county and the county probation officer, if he or she is not the petitioner, and the district attorney or probation officer or any of their deputies or any other person having relevant evidence may testify at the hearing on the petition. If, after a hearing, the court finds that since the termination of jurisdiction or action pursuant to Section 626, as the case may be, he or she has not been convicted of a felony or of any misdemeanor involving moral turpitude, that rehabilitation has been attained to the satisfaction of the court, and that the petition indicates that there is no currently pending civil litigation directly relating to, or arising from, the criminal act that caused the records to be created, it shall order all records, papers, and exhibits in the person's case in the custody of the juvenile court sealed, including the juvenile court record, minute book entries, and entries on dockets, and other records relating to the case in the custody of the other agencies and officials as are named in the order. If a ward of the juvenile court is subject to the registration requirements set forth in Section 290 of the Penal Code, a court, in ordering the sealing of the juvenile records of the person, also shall provide in the order that the person is relieved from the registration requirement and for the destruction of all registration information in the custody of the Department of Justice and other agencies and officials. Notwithstanding any other provision of law, the court shall not order the person's records sealed in any case in which the person has been found by the juvenile court to have committed an offense listed in subdivision (b) of, paragraph (2) of subdivision (d) of, or subdivision (e) of, Section 707 until at least six years have elapsed since commission of the offense listed in those provisions. The court shall not order the records sealed in any case unless the petition indicates that there is no pending civil litigation directly relating to, or arising from, the criminal act that caused the records to be created. However, once the civil case is closed, the records may be sealed. Once the court has ordered the person's records sealed, the proceedings in the case shall be deemed never to have occurred, and the person may properly reply accordingly to any inquiry about the events, the records of which are ordered sealed. The court shall send a copy of the order to each agency and official named therein, directing the agency to seal its records and stating the date thereafter to destroy the sealed records. Each agency and official shall seal the records in its custody as directed by the order, shall advise the court of its compliance, and thereupon shall seal the copy of the court's order for sealing of records that it, he, or she received. The person who is the subject of records sealed pursuant to this section may petition the superior court to permit inspection of the records by persons named in the petition, and the superior court may so order. Otherwise, except as provided in subdivision (b), the records shall not be open to inspection.

(b) In any action or proceeding based upon defamation, a court, upon a showing of good cause, may order any records sealed under this section to be opened and admitted into evidence. The records shall be confidential and shall be available for inspection only by the court, jury, parties, counsel for the parties, and any other person who is authorized by the court to inspect them. Upon the judgment in the action or proceeding becoming final, the court shall order the records sealed.

(c) (1) Subdivision (a) does not apply to Department of Motor Vehicles records of any convictions for offenses under the Vehicle Code or any local ordinance relating to the operation, stopping and standing, or parking of a vehicle where the record of that conviction would be a public record under Section 1808 of the Vehicle Code. However, if a court orders a case record containing that conviction to be sealed under this section, and if the Department of Motor Vehicles maintains a public record of the conviction, the court shall notify the Department of Motor Vehicles of the sealing and the department shall advise the court of its receipt of the notice.

Notwithstanding any other provision of law, subsequent to the notification, the Department of Motor Vehicles shall allow access to its record of convictions only to the subject of the record and to insurers that have been granted requester code numbers by the department. Any insurer to which a record of conviction is disclosed, when that conviction record has otherwise been sealed under this section, shall be given notice of the sealing when the record is disclosed to the insurer. The insurer may use the information contained in the record for purposes of determining eligibility for insurance and insurance rates for the subject of the record, and the information shall not be used for any other purpose nor shall it be disclosed by an insurer to any person or party not having access to the record.

(2) This subdivision shall not be construed as preventing the sealing of any record that is maintained by any agency or party other than the Department of Motor Vehicles.

(3) This subdivision shall not be construed as affecting the procedures or authority of the Department of Motor Vehicles for purging department records.

(d) Unless for good cause the court determines that the juvenile court record shall be retained, the court shall order the destruction of a person's juvenile court records that are sealed pursuant to this section as follows: five years after the record was ordered sealed, if the person who is the subject of the record was alleged or adjudged to be a person described by Section 601; or when the person who is the subject of the record reaches the age of 38 if the person was alleged or adjudged to be a person described by Section 602. Any other agency in possession of sealed records may destroy its records five years after the record was ordered sealed.

(e) This section shall not permit the sealing of a person's juvenile court records for an offense where the person is convicted of that

offense in a criminal court pursuant to the provisions of Section 707.1. This subdivision is declaratory of existing law.

(f) Notwithstanding any other provision of law, the records of a juvenile who was 16 years of age or older at the time he or she committed any criminal offense listed in subdivision (b) of Section 707 shall not be destroyed.

(g) Notwithstanding any other provision of law, in any criminal prosecution in which an enhancement is alleged pursuant to Section 667 or 1170.12 of the Penal Code, the parties shall be entitled to inspect, copy, and introduce into evidence for the purpose of proving the alleged enhancement, any juvenile records of the person named in the criminal complaint or information, whether or not those records have been sealed, where the person was found to have committed, when he or she was 16 years of age or older, an offense set forth in subdivision (b) of Section 707. Except as provided herein, these records shall be confidential and available for inspection and copying only by the court, the jury, as authorized by the court, parties, counsel for the parties, and any other person authorized by the court. In the case of an acquittal or if the enhancement allegations under Section 667 or 1170.12 of the Penal Code are stricken, the court shall order the records resealed.

(Amended Sec. 194, Ch. 83, Stats. 1999. Effective January 1, 2000.)

783. An adjudication that a minor violated any of the provisions enumerated in subdivision (d) of Section 13202.5 of the Vehicle Code shall be reported to the Department of Motor Vehicles at its office in Sacramento within 10 days of the adjudication pursuant to Section 1803 of the Vehicle Code.

(Amended Ch. 1254, Stats. 1988. Effective January 1, 1989.)

4648.3. A provider of transportation services to regional center clients for the regional center shall maintain protection against liability for damages for bodily injuries or death and for damage to or destruction of property, which may be incurred by the provider in the course of providing those services. The protection shall be maintained at the level established by the regional center to which the transportation services are provided.

(Added Ch. 492, Stats. 1987. Effective September 10, 1987.)

Confidentiality of Records

10850. (a) Except as otherwise provided in this section, all applications and records concerning any individual made or kept by any public officer or agency in connection with the administration of any provision of this code relating to any form of public social services for which grants-in-aid are received by this state from the United States government shall be confidential, and shall not be open to examination for any purpose not directly connected with the administration of that program, or any investigation, prosecution, or criminal or civil proceeding conducted in connection with the administration of any such program. The disclosure of any information ***that*** identifies by name or address any applicant for or recipient of these grants-in-aid to any committee or legislative body is prohibited, except as provided in subdivision (b).

(b) Except as otherwise provided in this section, no person shall publish or disclose or permit or cause to be published or disclosed any list of persons receiving public social services. Any county welfare department in this state may release lists of applicants for, or recipients of, public social services, to any other county welfare department or the State Department of Social Services, and these lists or any other records shall be released when requested by any county welfare department or the State Department of Social Services. These lists or other records shall only be used for purposes directly connected with the administration of public social services. Except for those purposes, no person shall publish, disclose, or use or permit or cause to be published, disclosed, or used any confidential information pertaining to an applicant or recipient.

Any county welfare department and the State Department of Social Services shall provide any governmental entity ***that*** is authorized by law to conduct an audit or similar activity in connection with the administration of public social services, including any committee or legislative body so authorized, with access to any public social service applications and records described in subdivision (a) to the extent of the authorization. Those committees, legislative bodies and other entities may only request or use these records for the purpose of investigating the administration of public social services, and shall not disclose the identity of any applicant or recipient except in the case of a criminal or civil proceeding conducted in connection with the administration of public social services.

However, this section shall not prohibit the furnishing of this information to other public agencies to the extent required for verifying eligibility or for other purposes directly connected with the administration of public social services, or to county superintendents of schools or superintendents of school districts only as necessary for the administration of federally assisted programs providing assistance in cash or in-kind or services directly to individuals on the basis of need. Any person knowingly and intentionally violating this subdivision is guilty of a misdemeanor.

Further, in the context of a petition for the appointment of a conservator for a person who is receiving or has received aid from a public agency, as indicated above, or in the context of a criminal prosecution for a violation of Section 368 of the Penal Code both of the following shall apply:

(1) An Adult Protective Services employee or Ombudsman may answer truthfully at any proceeding related to the petition or prosecution, when asked if he or she is aware of information that he or she believes is related to the legal mental capacity of that aid recipient or the need for a conservatorship for that aid recipient. If the Adult Protective Services employee or Ombudsman states that he or she is aware of such information, the court may order the Adult Protective Services employee or Ombudsman to testify about his or her observations and to disclose all relevant agency records.

(2) The court may order the Adult Protective Services employee or Ombudsman to testify about his or her observations and to disclose any relevant agency records if the court has other independent reason to believe that the Adult Protective Services employee or Ombudsman has information that would facilitate the resolution of the matter.

(c) The State Department of Social Services may make rules and regulations governing the custody, use, and preservation of all records, papers, files, and communications pertaining to the administration of the laws relating to public social services under their jurisdiction. The rules and regulations shall be binding on all departments, officials and employees of the state, or of any political subdivision of the state and may provide for giving information to or exchanging information with agencies, public or political subdivisions of the state, and may provide for giving information to or exchanging information with agencies, public or private, ***that*** are engaged in planning, providing, or securing social services for or in behalf of recipients or applicants; and for making case records available for research purposes, provided that ***making these case records available*** will not result in the disclosure of the identity of applicants for or recipients of public social services ***and will not disclose any personal information in a manner that would link the information disclosed to the individual to whom it pertains, unless the department has complied with subdivision (t) of Section 1798.24 of the Civil Code.***

(d) Any person, including every public officer and employee, who knowingly secures or possesses, other than in the course of official duty, an official list or a list compiled from official sources, published or disclosed in violation of this section, of persons who have applied for or who have been granted any form of public social services for which state or federal funds are made available to the counties is guilty of a misdemeanor.

(e) This section shall not be construed to prohibit an employee of a county welfare department from disclosing confidential information concerning a public social services applicant or recipient to a state or local law enforcement agency investigating or gathering information regarding a criminal act committed in a welfare department office, a criminal act against any county or state welfare worker, or any criminal act witnessed by any county or state welfare worker while involved in the administration of public social services at any location. Further, this section shall not be construed to prohibit an employee of a county welfare department from disclosing confidential information concerning a public social services applicant or recipient to a state or local law enforcement agency investigating or gathering information regarding a criminal act intentionally committed by the applicant or recipient against any off-duty county or state welfare worker in retaliation for an act performed in the course of the welfare worker's duty when the person committing the offense knows or reasonably should know that the victim is a state or county welfare worker. These criminal acts shall include only those ***that*** are in

violation of state or local law. Disclosure of confidential information pursuant to this subdivision shall be limited to the applicant's or recipient's name, physical description, and address.

(f) The provisions of this section shall be operative only to the extent permitted by federal law and shall not apply to, but exclude, Chapter 7 (commencing with Section 14000) of this division, entitled "Basic Health Care", and for which a grant-in-aid is received by the state under Title XIX of the Social Security Act.

(Amended Sec. 3, Ch. 241, Stats. 2005. Effective January 1, 2006.)

11350.6. (a) As used in this section: (1) "Applicant" means any person applying for issuance or renewal of a license.

(2) "Board" means any entity specified in Section 101 of the Business and Professions Code, the entities referred to in Sections 1000 and 3600 of the Business and Professions Code, the State Bar, the Department of Real Estate, the Department of Motor Vehicles, the Secretary of State, the Department of Fish and Game, and any other state commission, department, committee, examiner, or agency that issues a license, certificate, credential, permit, registration, or any other authorization to engage in a business, occupation, or profession, or to the extent required by federal law or regulations, for recreational purposes. This term includes all boards, commissions, departments, committees, examiners, entities, and agencies that issue a license, certificate, credential, permit, registration, or any other authorization to engage in a business, occupation, or profession. The failure to specifically name a particular board, commission, department, committee, examiner, entity, or agency that issues a license, certificate, credential, permit, registration, or any other authorization to engage in a business, occupation, or profession does not exclude that board, commission, department, committee, examiner, entity, or agency from this term.

(3) "Certified list" means a list provided by the district attorney to the State Department of Social Services in which the district attorney verifies, under penalty of perjury, that the names contained therein are support obligors found to be out of compliance with a judgment or order for support in a case being enforced under Title IV-D of the Social Security Act.

(4) "Compliance with a judgment or order for support" means that, as set forth in a judgment or order for child or family support, the obligor is no more than 30 calendar days in arrears in making payments in full for current support, in making periodic payments in full, whether court ordered or by agreement with the district attorney, on a support arrearage, or in making periodic payments in full, whether court ordered or by agreement with the district attorney, on a judgment for reimbursement for public assistance, or has obtained a judicial finding that equitable estoppel as provided in statute or case law precludes enforcement of the order. The district attorney is authorized to use this section to enforce orders for spousal support only when the district attorney is also enforcing a related child support obligation owed to the obligee parent by the same obligor, pursuant to Sections 11475.1 and 11475.2.

(5) "License" includes membership in the State Bar, and a certificate, credential, permit, registration, or any other authorization issued by a board that allows a person to engage in a business, occupation, or profession, or to operate a commercial motor vehicle, including appointment and commission by the Secretary of State as a notary public. "License" also includes any driver's license issued by the Department of Motor Vehicles, any commercial fishing license issued by the Department of Fish and Game, and to the extent required by federal law or regulations, any license used for recreational purposes. This term includes all licenses, certificates, credentials, permits, registrations, or any other authorization issued by a board that allows a person to engage in a business, occupation, or profession. The failure to specifically name a particular type of license, certificate, credential, permit, registration, or other authorization issued by a board that allows a person to engage in a business, occupation, or profession, does not exclude that license, certificate, credential, permit, registration, or other authorization from this term.

(6) "Licensee" means any person holding a license, certificate, credential, permit, registration, or other authorization issued by a board, to engage in a business, occupation, or profession, or a commercial driver's license as defined in Section 15210 of the Vehicle Code, including an appointment and commission by the Secretary of State as a notary public. "Licensee" also means any person holding a driver's license issued by the Department of Motor Vehicles, any person holding a commercial fishing license issued by the Department of Fish and Game, and to the extent required by federal law or regulations, any person holding a license used for recreational purposes. This term includes all persons holding a license, certificate, credential, permit, registration, or any other authorization to engage in a business, occupation, or profession, and the failure to specifically name a particular type of license, certificate, credential, permit, registration, or other authorization issued by a board does not exclude that person from this term.

(b) The district attorney shall maintain a list of those persons included in a case being enforced under Title IV-D of the Social Security Act against whom a support order or judgment has been rendered by, or registered in, a court of this state, and who are not in compliance with that order or judgment. The district attorney shall submit a certified list with the names, social security numbers, and last known addresses of these persons and the name, address, and telephone number of the district attorney who certified the list to the State Department of Social Services. The district attorney shall verify, under penalty of perjury, that the persons listed are subject to an order or judgment for the payment of support and that these persons are not in compliance with the order or judgment. The district attorney shall submit to the State Department of Social Services an updated certified list on a monthly basis.

(c) The State Department of Social Services shall consolidate the certified lists received from the district attorneys and, within 30 calendar days of receipt, shall provide a copy of the consolidated list to each board which is responsible for the regulation of licenses, as specified in this section.

(d) On or before November 1, 1992, or as soon thereafter as economically feasible, as determined by the State Department of Social Services, all boards subject to this section shall implement procedures to accept and process the list provided by the State Department of Social Services, in accordance with this section. Notwithstanding any other provision of law, all boards shall collect social security numbers from all applicants for the purposes of matching the names of the certified list provided by the State Department of Social Services to applicants and licensees and of responding to requests for this information made by child support agencies.

(e) (1) Promptly after receiving the certified consolidated list from the State Department of Social Services, and prior to the issuance or renewal of a license, each board shall determine whether the applicant is on the most recent certified consolidated list provided by the State Department of Social Services. The board shall have the authority to withhold issuance or renewal of the license of any applicant on the list.

(2) If an applicant is on the list, the board shall immediately serve notice as specified in subdivision (f) on the applicant of the board's intent to withhold issuance or renewal of the license. The notice shall be made personally or by mail to the applicant's last known mailing address on file with the board. Service by mail shall be complete in accordance with Section 1013 of the Code of Civil Procedure.

(A) The board shall issue a temporary license valid for a period of 150 days to any applicant whose name is on the certified list if the applicant is otherwise eligible for a license.

(B) Except as provided in subparagraph (D), the 150-day time period for a temporary license shall not be extended. Except as provided in subparagraph (D), only one temporary license shall be issued during a regular license term and it shall coincide with the first 150 days of that license term. As this paragraph applies to commercial driver's licenses, "license term" shall be deemed to be 12 months from the date the application fee is received by the Department of Motor Vehicles. A license for the full or remainder of the license term shall be issued or renewed only upon compliance with this section.

(C) In the event that a license or application for a license or the renewal of a license is denied pursuant to this section, any funds paid by the applicant or licensee shall not be refunded by the board. .

(D) This paragraph shall apply only in the case of a driver's license, other than a commercial driver's license. Upon the request of the district attorney or by order of the court upon a showing of good cause, the board shall extend a 150-day temporary license for a period not to exceed 150 extra days.

(3) (A) The State Department of Social Services may, when it is economically feasible for the department and the boards to do so as determined by the department, in cases where the department is aware that certain child support obligors listed on the certified lists have been out of compliance with a judgment or order for support for more than four months, provide a supplemental list of these obligors

to each board with which the department has an interagency agreement to implement this paragraph. Upon request by the department, the licenses of these obligors shall be subject to suspension, provided that the licenses would not otherwise be eligible for renewal within six months from the date of the request by the department. The board shall have the authority to suspend the license of any licensee on this supplemental list.

(B) If a licensee is on a supplemental list, the board shall immediately serve notice as specified in subdivision (f) on the licensee that his or her license will be automatically suspended 150 days after notice is served, unless compliance with this section is achieved. The notice shall be made personally or by mail to the licensee's last known mailing address on file with the board. Service by mail shall be complete in accordance with Section 1013 of the Code of Civil Procedure.

(C) The 150-day notice period shall not be extended.

(D) In the event that any license is suspended pursuant to this section, any funds paid by the licensee shall not be refunded by the board.

(E) This paragraph shall not apply to licenses subject to annual renewal or annual fee.

(f) Notices shall be developed by each board in accordance with guidelines provided by the State Department of Social Services and subject to approval by the State Department of Social Services. The notice shall include the address and telephone number of the district attorney who submitted the name on the certified list, and shall emphasize the necessity of obtaining a release from that district attorney's office as a condition for the issuance, renewal, or continued valid status of a license or licenses.

(1) In the case of applicants not subject to paragraph (3) of subdivision (e), the notice shall inform the applicant that the board shall issue a temporary license, as provided in subparagraph (A) of paragraph (2) of subdivision (e), for 150 calendar days if the applicant is otherwise eligible and that upon expiration of that time period the license will be denied unless the board has received a release from the district attorney who submitted the name on the certified list.

(2) In the case of licensees named on a supplemental list, the notice shall inform the licensee that his or her license will continue in its existing status for no more than 150 calendar days from the date of mailing or service of the notice and thereafter will be suspended indefinitely unless, during the 150-day notice period, the board has received a release from the district attorney who submitted the name on the certified list. Additionally, the notice shall inform the licensee that any license suspended under this section will remain so until the expiration of the remaining license term, unless the board receives a release along with applications and fees, if applicable, to reinstate the license during the license term.

(3) The notice shall also inform the applicant or licensee that if an application is denied or a license is suspended pursuant to this section, any funds paid by the applicant or licensee shall not be refunded by the board. The State Department of Social Services shall also develop a form that the applicant shall use to request a review by the district attorney. A copy of this form shall be included with every notice sent pursuant to this subdivision.

(g) (1) Each district attorney shall maintain review procedures consistent with this section to allow an applicant to have the underlying arrearage and any relevant defenses investigated, to provide an applicant information on the process of obtaining a modification of a support order, or to provide an applicant assistance in the establishment of a payment schedule on arrearages if the circumstances so warrant. .

(2) It is the intent of the Legislature that a court or district attorney, when determining an appropriate payment schedule for arrearages, base its decision on the facts of the particular case and the priority of payment of child support over other debts. The payment schedule shall also recognize that certain expenses may be essential to enable an obligor to be employed. Therefore, in reaching its decision, the court or the district attorney shall consider both of these goals in setting a payment schedule for arrearages.

(h) If the applicant wishes to challenge the submission of his or her name on the certified list, the applicant shall make a timely written request for review on the form specified in subdivision (f) to the district attorney who certified the applicant's name. The district attorney shall, within 75 days of receipt of the written request, inform the applicant in writing of his or her findings upon completion of the review. The district attorney shall immediately send a release to the appropriate board and the applicant, if any of the following conditions are met:

(1) The applicant is found to be in compliance or negotiates an agreement with the district attorney for a payment schedule on arrearages or reimbursement.

(2) The applicant has submitted a request for review, but the district attorney will be unable to complete the review and send notice of his or her findings to the applicant within 75 days. This paragraph applies only if the delay in completing the review process is not the result of the applicant's failure to act in a reasonable, timely, and diligent manner upon receiving notice from the board that his or her name is on the list.

(3) The applicant has filed and served a request for judicial review pursuant to this section, but a resolution of that review will not be made within 150 days of the date of service of notice pursuant to subdivision (f). This paragraph applies only if the delay in completing the judicial review process is not the result of the applicant's failure to act in a reasonable, timely, and diligent manner upon receiving the district attorney's notice of his or her findings.

(4) The applicant has obtained a judicial finding of compliance as defined in this section.

(i) An applicant is required to act with diligence in responding to notices from the board and the district attorney with the recognition that the temporary license will lapse or the license suspension will go into effect after 150 days and that the district attorney and, where appropriate, the court must have time to act within that period. An applicant's delay in acting, without good cause, which directly results in the inability of the district attorney to complete a review of the applicant's request or the court to hear the request for judicial review within the 150-day period shall not constitute the diligence required under this section which would justify the issuance of a release.

(j) Except as otherwise provided in this section, the district attorney shall not issue a release if the applicant is not in compliance with the judgment or order for support. The district attorney shall notify the applicant in writing that the applicant may, by filing an order to show cause or notice of motion, request any or all of the following:

(1) Judicial review of the district attorney's decision not to issue a release.

(2) A judicial determination of compliance.

(3) A modification of the support judgment or order.

The notice shall also contain the name and address of the court in which the applicant shall file the order to show cause or notice of motion and inform the applicant that his or her name shall remain on the certified list if the applicant does not timely request judicial review. The applicant shall comply with all statutes and rules of court regarding orders to show cause and notices of motion.

Nothing in this section shall be deemed to limit an applicant from filing an order to show cause or notice of motion to modify a support judgment or order or to fix a payment schedule on arrearages accruing under a support judgment or order or to obtain a court finding of compliance with a judgment or order for support.

(k) The request for judicial review of the district attorney's decision shall state the grounds for which review is requested and judicial review shall be limited to those stated grounds. The court shall hold an evidentiary hearing within 20 calendar days of the filing of the request for review. Judicial review of the district attorney's decision shall be limited to a determination of each of the following issues:

(1) Whether there is a support judgment, order, or payment schedule on arrearages or reimbursement.

(2) Whether the petitioner is the obligor covered by the support judgment or order.

(3) Whether the support obligor is or is not in compliance with the judgment or order of support.

(4) The extent to which the needs of the obligor, taking into account the obligor's payment history and the current circumstances of both the obligor and the obligee, warrant a conditional release as described in this subdivision.

The request for judicial review shall be served by the applicant upon the district attorney who submitted the applicant's name on the certified list within seven calendar days of the filing of the petition. The court has the authority to uphold the action, unconditionally release the license, or conditionally release the license.

If the judicial review results in a finding by the court that the obligor is in compliance with the judgment or order for support, the district attorney shall immediately send a release in accordance with subdivision (h) to the appropriate board and the applicant. If the judicial review results in a finding by the court that the needs of the obligor warrant a conditional release, the court shall make findings of fact stating the basis for the release and the payment necessary to satisfy the unrestricted issuance or renewal of the license without prejudice to a later judicial determination of the amount of support arrearages, including interest, and shall specify payment terms, compliance with which are necessary to allow the release to remain in effect.

(*l*) The State Department of Social Services shall prescribe release forms for use by district attorneys. When the obligor is in compliance, the district attorney shall mail to the applicant and the appropriate board a release stating that the applicant is in compliance. The receipt of a release shall serve to notify the applicant and the board that, for the purposes of this section, the applicant is in compliance with the judgment or order for support. Any board that has received a release from the district attorney pursuant to this subdivision shall process the release within five business days of its receipt.

If the district attorney determines subsequent to the issuance of a release that the applicant is once again not in compliance with a judgment or order for support, or with the terms of repayment as described in this subdivision, the district attorney may notify the board, the obligor, and the State Department of Social Services in a format prescribed by the State Department of Social Services that the obligor is not in compliance.

The State Department of Social Services may, when it is economically feasible for the department and the boards to develop an automated process for complying with this subdivision, notify the boards in a manner prescribed by the department, that the obligor is once again not in compliance. Upon receipt of this notice, the board shall immediately notify the obligor on a form prescribed by the department that the obligor's license will be suspended on a specific date, and this date shall be no longer than 30 days from the date the form is mailed. The obligor shall be further notified that the license will remain suspended until a new release is issued in accordance with subdivision (h). Nothing in this section shall be deemed to limit the obligor from seeking judicial review of suspension pursuant to the procedures described in subdivision (k).

(m) The State Department of Social Services may enter into interagency agreements with the state agencies that have responsibility for the administration of boards necessary to implement this section, to the extent that it is cost-effective to implement this section. These agreements shall provide for the receipt by the other state agencies and boards of federal funds to cover that portion of costs allowable in federal law and regulation and incurred by the state agencies and boards in implementing this section. Notwithstanding any other provision of law, revenue generated by a board or state agency shall be used to fund the nonfederal share of costs incurred pursuant to this section. These agreements shall provide that boards shall reimburse the State Department of Social Services for the nonfederal share of costs incurred by the department in implementing this section. The boards shall reimburse the State Department of Social Services for the nonfederal share of costs incurred pursuant to this section from moneys collected from applicants and licensees.

(n) Notwithstanding any other provision of law, in order for the boards subject to this section to be reimbursed for the costs incurred in administering its provisions, the boards may, with the approval of the appropriate department director, levy on all licensees and applicants a surcharge on any fee or fees collected pursuant to law, or, alternatively, with the approval of the appropriate department director, levy on the applicants or licensees named on a certified list or supplemental list, a special fee.

(o) The process described in subdivision (h) shall constitute the sole administrative remedy for contesting the issuance of a temporary license or the denial or suspension of a license under this section. The procedures specified in the administrative adjudication provisions of the Administrative Procedure Act (Chapter 4.5 (commencing with Section 11400) and Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code) shall not apply to the denial, suspension, or failure to issue or renew a license or the issuance of a temporary license pursuant to this section.

(p) In furtherance of the public policy of increasing child support enforcement and collections, on or before November 1, 1995, the State Department of Social Services shall make a report to the Legislature and the Governor based on data collected by the boards and the district attorneys in a format prescribed by the State Department of Social Services. The report shall contain all of the following:

(1) The number of delinquent obligors certified by district attorneys under this section.

(2) The number of support obligors who also were applicants or licensees subject to this section.

(3) The number of new licenses and renewals that were delayed, temporary licenses issued, and licenses suspended subject to this section and the number of new licenses and renewals granted and licenses reinstated following board receipt of releases as provided by subdivision (h) by May 1, 1995.

(4) The costs incurred in the implementation and enforcement of this section.

(q) Any board receiving an inquiry as to the licensed status of an applicant or licensee who has had a license denied or suspended under this section or has been granted a temporary license under this section shall respond only that the license was denied or suspended or the temporary license was issued pursuant to this section. Information collected pursuant to this section by any state agency, board, or department shall be subject to the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code).

(r) Any rules and regulations issued pursuant to this section by any state agency, board, or department may be adopted as emergency regulations in accordance with the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). The adoption of these regulations shall be deemed an emergency and necessary for the immediate preservation of the public peace, health, and safety, or general welfare. The regulations shall become effective immediately upon filing with the Secretary of State.

(s) The State Department of Social Services and boards, as appropriate, shall adopt regulations necessary to implement this section.

(t) The Judicial Council shall develop the forms necessary to implement this section, except as provided in subdivisions (f) and (*l*).

(u) The release or other use of information received by a board pursuant to this section, except as authorized by this section, is punishable as a misdemeanor.

(v) The State Board of Equalization shall enter into interagency agreements with the State Department of Social Services and the Franchise Tax Board that will require the State Department of Social Services and the Franchise Tax Board to maximize the use of information collected by the State Board of Equalization, for child support enforcement purposes, to the extent it is cost-effective and permitted by the Revenue and Taxation Code.

(w) The suspension or revocation of any driver's license, including a commercial driver's license, under this section shall not subject the licensee to vehicle impoundment pursuant to Section 14602.6 of the Vehicle Code.

(x) If any provision of this section or the application thereof to any person or circumstance is held invalid, that invalidity shall not affect other provisions or applications of this section which can be given effect without the invalid provision or application, and to this end the provisions of this section are severable.

(y) All rights to administrative and judicial review afforded by this section to an applicant shall also be afforded to a licensee.

(Amended Sec. 5, Ch. 654, Stats. 1999. Effective January 1, 2000. Supersedes Ch. 652.)